[fol. 1704] should be lettered and fixed up so that the field examiners can see it.

I might say this: in regard to titles and so forth, maybe the Commission's information might be distorted just a little bit in regard to the amount of equipment that is owned on the road by owner-operators and the amount that is owned by carriers, for the simple reason that a lot of time when I would be driving up the road and a field man of the ICC would stop me, or a state policeman or somebody like that, for a check-up, I tried a time or two to tell him that I owned the equipment, and he would look at my license, and it would be licensed in the name of the company, and he would question my veracity, and I had an awful time trying to tell him what was what. So I gave up the idea. Most generally after that—and I think most of the members do—I just tell him this belongs to the carrier it is titled with and forget the whole thing just because we don't like to stand there talking to them too long.

By Mr. Driscoll:

Q. Do you know anybody else who has proposed a standard lease that would cover all of these items that you think are necessary to be included in a lease?

A. No, I don't. About 95 percent of our membership, I think, approved of some form of a uniform lease.

Q. And if anyone comes forward with a better one, you will vote for that, will you?

[fol. 1705] A. We will try to go along. We will do the best we can to get something set up for the industry that will be uniform and will work.

Exam. Lawton: Is there any cross examination?

Mr. Todd: I have just one question.

Cross-examination.

By Mr. Todd:

Q. Mr. Witness, is it your position that the owner operator should be permitted to trip-lease their vehicles to the shipping public as well as to the carriers?

Mr. Lieberman: I respectfully submit; your Honor that is asking for a conclusion which is illegal.

Mr. Todd: Well, now, who is protecting this witness, Mr. Examiner? He is well represented here by able counsel. If there is anything objectionable to my question, I think it could be very well answered from that direction.

Mr. Lieberman: This is a general investigation and I don't think that a witness should be called upon to give his opinion as to something which is illegal.

Mr. Eldred: Why is it illegal? There is no showing that it is illegal. That is your conclusion.

Exam. Lawton: Overruled. Let him answer.

The Witness: We as truck drivers, that is, the majority of us, know something about the rules and regulations of the ICC and to my knowledge I don't know of anyone who has gone to a shipper and leased his truck to a shipper. Now, I think the shipper himself should know better than [fol. 1706] just ship his freight on a truck that had no authority to carry it. I don't think that would enter into the picture at all.

As far as soliciting freight is concerned, naturally, we solicit freight for our carriers. That is our business, and we are a part of them. We are their contact men to the shippers and to the consignees as well, and it is our business to protect them at all times and build ourselves up. We do do that. I don't think there is anything illegal about that.

Exam. Lawton: Well, now, I think that is enough.

The Witness: All right.

Exam. Lawton: Make your answers responsible.

Mr. Todd: That is all.

Cross-examination.

By Mr. Diehl:

Q. Mr. Witness, what would be the effect upon your investment, and your enterprise, if the Interstate Commerce Commission should prohibit or closely restrict leasing?

A. Well, it would hinder it very much. If they restricted it altogether, I don't know just what would happen. It probably would be an economic situation which probably couldn't be controlled. As I said, I think we have probably better than 50 percent of the equipment and that we move

over 50 percent of the freight moved all over the country. If it were restricted completely, I don't think the drivers working with this equipment would work for a carrier. I don't know where you are going to get the drivers. You [fol. 1707] probably could, but you would kill half the people in the United States before you got them trained to operate.

Mr. Burton K. Wheeler: Well, if they insisted upon long-term leases, that wouldn't affect it.

The Witness: I think it would.

Mr. Burton K. Wheeler: You are under long-term lease, aren't you?

The Witness: Well, I don't know whether you would call it a long-term lease or not. It is cancellable in 15 days. To me, their lease is just long enough——

Mr. Burton K. Wheeler: I didn't get your answer.

The Witness: Practically all the leases we found all over the country are terminable on notice of one to 15 days.

Exam. Lawton: On the part of either party?

The Witness: That is right. A lease is not any better than its day of termination.

Exam. Lawton: But they do provide for a certain term, do they?

The Witness: Most of them provide for one year, with a cancellation clause of from one to 15 days, I believe it is.

By Mr. Burton K. Wheeler:

Q. Are you familiar with the fact that some of the states do prevent trip leases?

A. I don't know as to that. I do know that some regulations should be set up in regard to it that would be uniform throughout the United States. I don't see any reason [fol. 1708] for one state coming up and saying, "You can't do that." We have enough of that. I might say that in our questionnaire, most of the big complaints of all of our members was that they advocated uniform conditions throughout the United States, uniform wage laws, and so forth, so that everybody knows what he is doing, and so that we can protect our investment in any case.

By Mr. Kittredge:

Q. I understand from your testimony that you have three complete units, tractor and trailer.

A. Tractor and semi.

Q. And painted with All States' name?

A. Yes, sir.

Q. Does your name appear on any markings on those vehicles?

A. Our name does not appear, because they have title to the equipment. And in that case it wouldn't be necessary.

Q. You are not the owner of the vehicle?

A. Well, theoretically, yes. But I wouldn't know.

Mr. Driscoll: You paid for it?

The Witness: I paid for it.

By Mr. Kittredge:

Q. I understand that when you are stopped on a highway by the inspectors, that you tell them you do not own the equipment; is that right?

A. I have found that is the quickest and easiest way to get away from them. If I start to tell them that I own the equipment and they see it is licensed in the company's name and the license is there to show it, they look at me [fol. 1709] and think I am a stupid fool or something. I don't know how I can explain it in any other way.

Q. It can't be explained satisfactorily?

A. It probably could, if you wanted to put in enough time at it.

Exam. Lawton: Mr. Witness, why does the carrier insist on the title being transferred over to him?

The Witness: Due to some conditions in some states with regard to insurance and so forth.

Mr. Eldred: Isn't that required by the State of Ohio? Isn't that where your trucks are licensed?

The Witness: No, sir.

Mr. Eldred: What is it?

The Witness: I think it is the State of Connecticut. I don't think it is required. They could file insurance papers and so forth and fix it up. At least I think so.

Exam. Lawton: Do all the carriers require that, that you know of, in your territory?

The Witness: No, just some, that have those conditions in certain states.

By Mr. Eldred:

Q. What is the understanding as to how you get your title back? How do you get your title back to you- trucks?

A. There is a provision in the lease which says that this title is supposed to be—I have one here, I will just [fol. 1710] read it to you.

Exam. Lawton: You don't need to bother. Is that in every one of the leases?

The Witness: No, that is not in our lease. That is in a lease that I picked up.

Exam. Lawton: I mean in the leases that you actually signed with the carrier. Is that contained in it?

The Witness: Yes.

Mr. Driscoll: It is in the leases presently operating.

Exam. Lawton: I understand.

The Witness: Here the clause "for the purpose of establishing of record the right of lessee to the continued possession of said equipment, the lessor agrees on even date herewith to execute a bill of sale or certificate of title to the lessee for said equipment. Upon the termination of this lease, the lessee will execute and deliver to the lessor a bill of sale or certificate of title to said equipment."

Mr. Driscoll: And unless they went bankrupt they probably would follow that out?

The Witness: We trust them to that extent now.

Mr. Burton K. Wheeler: And all of your equipment is painted with the name of the carrier, is it not?

The Witness: That is right.

Mr. Burton K. Wheeler: If you are on a trip lease, and you take a contract to deliver goods from somebody else, [fol. 1711] whether it is a shipper or another carrier, you are still doing it with the name of the present carrier, aren't you?

The Witness: I don't know.

Mr. Burton K. Wheeler: Well, if you did do it. You say you have done it in a few instances.

The Witness: I think this: we have a practical arrangement worked out at our company, and I think it probably could be adopted for the industry, I think it is a good idea. They have a holder on each side of the trailer and tractor, a metal form made to conform to a certain standard, and then they take a metal plate, with the name of the carrier's name, and they can just drop it down over the lettering originally there. It covers up the other lettering. And I think that could be made a standard form.

Mr. Burton K. Wheeler: Where do you carry? Between what points do you operate?

The Witness: Our lines extend from Chicago to New York, Boston—serving the New England States from the west, and Ohio and points west.

Mr .Burton K. Wheeler: When you go from Akron, say, to Boston, or Worcester or wherever you go, do you always have a return load?

The Witness: I don't remember when I ever did come back empty. Once in a great while maybe you would be loaded a little light. But it is just as apt to happen one [fol. 1712] way as the other.

Mr. Burton K. Wheeler: Who furnishes the load coming back?

The Witness: All States Freight. They have terminals up there.

Mr. Lieberman: I would like to ask a question.

Exam. Lawton: Mr. Lieberman.

By Mr. Lieberman:

Q. You have been engaged as an owner-operator now since about 1936; is that correct?

A. Fall of 1935.

Q. Why have you elected to operate as an owner-driver rather than as an employee of a truck line?

A. Because I have an opportunity to advance myself a little bit financially. I don't feel that I want to work for wages all my life. So it gives me an opportunity to kind of build up my financial status a little bit by an economical operation, of course.

Q. Have you made any comparison between your earn-

as to a continuing hours of service performance by the drivers for at least a 70 hour period prior to the operation under each carrier. If that had been done at the close of the war, the practices that are now in vogue would have never reached the proportions they are.

We believe that the Commission have been extremely lax in the enforcement of their hours of service regulations as [fol. 1737] it pertains to the use of leased vehicles. We feel that a great deal of the trouble today, a great deal of the problem presents itself is due to lack of enforcement by the Commission and proper interpretation of their own rules so that they have proper application for the purpose that Congress intended when it enacted safety regulations that protected the public.

I want to give you some illustrations of just what we are confronted with. In the first place, the carriers that I represent do not trip lease motor truck equipment—at least it would be a rare occasion that they do. Some of them do operate so-called owner-driver equipment. When I use the term "owner-driver equipment" I differentiate motor trip leases by referring to the person who owns a vehicle and leases it to a motor carrier on a continuing long term arrangement, and, in fact, becomes an employee of the company in the same manner as any driver employee.

We have no criticism in that particular arrangement. We believe that if proper enforcement of the trip leasing is had, with the utilization of owner-drivers on continuing leases, and under arrangements where they respond to regulations the same as any other driver, that that practice is one that has grown up with the industry and probably will have to be retained; but to give you an illustration, during the war—and I was Chairman of a joint office that was established for the sole purpose of utilizing all equipment to every possible load carrying possibility, everybody encouraged the practice of leasing equipment helter-skelter, [fol. 1738] running over other people's rights, and everything else that would move freight.

At the close of the war it seems that the Commission did not grasp the situation quickly enough, did not make the pronouncements necessary to stop the practice that is going on today, with about the same force that it did during the

war, and to illustrate, the day before yesterday one driver unit of a large system carrier called on one of our carriers at Chicago and wanted a bill cut to protect a load that he had run through to Milwaukee and returned to Chicago. So that you understand exactly what I am saying, this carrier, or owner-operator, with or without the consent of the company, we are not aware of that, moved a load of steel from Philadelphia consigned to Milwaukee, Wisconsin. It was routed over the carrier originating it in connection with another carrier to be transferred at Chicago. Instead of the one driver stopping at Chicago he went directly to Milwaukee. He came back to Chicago and then attempted to get some carrier authorized to operate between Chicago and Milwaukee to clear it by a trip lease after the movement had been gone on. Now, that one is fresh in my mind. It would serve no purpose for me to identify the carrier. We are not here to criticize any carrier but we have had a repetition of that. We have put our own police force on the highway between Chicago and Milwaukee to try to stop this practice. We have got it down to a point now [fol. 1739] where it has diminshed but it just continues on and on.

By Exam. Lawton:

Q. Let me see if I understand that clearly, Mr. Girard. Is that now a situation where a carrier accepts a load for a point that he does not have authority to serve and seeks to utilize an owner-operator in the hope that beyond his territory limit it could be trip leased to another carrier and get to destination; just how does that work out?

A. Well, ordinarily in other territories there has been a practice, had this shipment originated at Philadelphia as it has, moved to Chicago, and the carrier wanted to let the power and the trailer go on through, they would arrange some kind of a trip lease before the load ever left the transfer termini point, but that only happens the first time. You give one of these carriers that so-called trip lease and the next time they do not stop for the trip lease, they go right on through. As I said, we have concluded in our own mind whether the Commission agrees or not, that the hours of service regulations, if we are not to break

down the morale of our own drivers must be observed in this fashion regardless whether it is a trip lease, whether it is a continuing lease, whether it is an employee, a carrier should have in its possession evidence in the form of continuing drivers logs showing that a driver during any 70-hour period did not exceed his hours on duty and did not during that period exceed a 10-hour driving time on one trip. Unless we have that, your hours of service regulations of today are a farce. They are a travesty on an industry [fol. 1740] and they are not intended to do what they were supposed to do.

Now, we do not practice trip leasing of our own power and trailers, using an illustration that you might, Mr. Examiner, while some carriers are practicing that throughout the territory we have gone so far as to restrict our joint rates in our published tariffs that the joint rates would not apply when the power and the trailer of the originating carrier is employed to haul a load from an origin to a final destination on a joint movement. We have encouraged and tried to expand the policy of interchanging loaded or empty trailers between carriers. That is a good practice. It is one which puts us in position to render an expedited service. It is healthy for the public and it is healthy for all concerned, but the control of the operations and control of the transportation and the property is then vested in the carriers having particular operating rights.

Now, as I said, the trip leasing, either whether it be single or joint, I mean be single or round trip, is a practice that we believe must be brought within control and brought within control very readily, or we are going to draw from the various States restrictive legislation that is going to again put up the barriers at these State lines that we tried to break down for years and years. I am confident that in the expression of our carriers, that if we can't get the relief we are seeking here from the Commission, we are going [fol. 1741] to ask the relief from the State of Wisconsin to put in such statutes as will control the trip leasing and bring the operation wholly within observance of the law.

Now, in Central Territory we have a situation where there are carriers who own no equipment. They have no investment in the trucking industry at all. They do not have

under lease the so-called owner-driver equipment for any continuing period of time where they guarantee that owner steady employment. Instead they rely on the open market to get their equipment. As an illustration, if they took 20 loads today, tomorrow morning they get 20 so-called unattached owner-drivers from our 11 or 12 camps in Chicago. The next day, if they have 10 loads, they draw 10. Economically they have an extreme advantage over most carriers. As a result, the rate structure, our revenue structures in Central Territory are being torn down and deteriorated to a point where we are going to bring all member carrier returns down to the level of these non-invested companies. These companies that employ equipment in the manner I have said, furnish a load to the carrier. They get him to destination and then he is on his own. He will run around and find somebody else who probably will have need for his service and will then return to the point he originated or go to some other point and go on a circuit.

There are lapses of time where these carriers have no protection whatsoever in the form of insurance. They are [fol. 1742] running wild. We have a situation similar to this that are being reported in the papers from day to day as to lawsuits.

None of these practices are conducive to the maintenance of safe and adequate services by those carriers who have investments and who are trying to observe the regulations of the Commission.

We feel that we are using the highways at the expense of the public. We feel that we have been furnished these highways to use to make a living. We feel that we have a very definite obligation to the public to respond to that privilege in a manner that will be conducive to the most protection to that public. We are failing and falling much short of that obligation today. Just as another illustration, around Chicago I guess they produce as much steel tonnage to move by motor carriers as they do in any section of the United States. The weight laws in the various States in that territory have been liberalized within the last several years, liberalized to a point where they are at the highest peak they have ever been. Nevertheless, these boys that are operating as trip lessors, who are interested in how

much earnings they get out of each particular load have encouraged these steel mills to load them to limits that would amaze anybody if they were to know how much is being loaded on these vehicles. In many respects the owner has no control over what they are doing. They do just as [fol. 1743] they please.

I might say, Mr. Examiner, the practice of the type of carrier who resorts to the use of trip leases exclusively or in a preponderance does not generally accept the obligation of a common carrier but selects his traffic at the whims and fancies of those owners of the equipment that are operating on trip leases. The so-called small package stuff, or the LTL stuff is passed by and it is left to the other carriers to handle the traffic.

It used to be, when I first went in the trucking business, you could rent space to do business in for 25 dollars a month. In fact, I started in an old fire house. Today for us to maintain the kind of facilities that moves LTL traffic we are required to put investments of a minimum of 100 thousand dollars in terminals. As an illustration, I estimate that the carriers that are represented by our groups haul 28 million tons of freight annually. They have 37 million dollars worth of revenue and have investments in motor truck equipment of 10 million dollars, and terminal properties now to get into the 3 million dollar figure.

Now, if those investments are going to be protected, if we as carriers are going to be permitted to operate as all other carriers, then we believe the carriers who call themselves common carriers should respond to that same type of operations. This selectivity, this passing on the responsibility and authority to operate to various numbers of indi- [fol. 1744] viduals will have to stop some way, some fashion.

In conclusion, there has been considerable doubt as to the extent of the Commission's jurisdiction, and if there is still that doubt within a short space of time we believe that the Commission is remiss in its duties if it does not go before Congress and recommend the changes that they feel are necessary in the statute to give the public the proper protection and put this industry on a basis that is conducive

ings and the earning of others who are in the direct employ, for example, of All States or other carriers?

A. You mean as a driver?

Q. Yes, as a driver. In other words, have you compared your earnings as an owner-operator with that of a driver who is strictly and solely a driver, for example, of All States, running over the same routes over which you are running?

A. Well, I run under the same conditions——

[fol. 1713] Exam. Lawton: No. Answer the question.

The Witness: Yes, I have made a comparison.

By Mr. Lieberman:

Q. What have you found? Is your position any better than that of those who are directly employed?

A. Well, evidently so; yes.

Q. Have you had any discussions with other owner-drivers along those same lines?

A. Oh, yes, of course.

Q. What is the consensus of their opinion?

A. The consensus of opinion is, of course, that they are doing better by owning a truck than they would be by driving it.

Q. What is your record personally as to accidents as compared to the record of drivers in the employ of All States?

Mr. Eldred: If he knows.

The Witness: I only know what my carriers tell me.

Mr. Burton K. Wheeler: That is objected to.

Mr. Lieberman: I submit, sir, that we have heard a lot of testimony here about what other people have told witnesses and certainly it would be very germane here to a man sho is directly engaged in this type of operation to, tell us what he has been told.

Mr. Burton K. Wheeler: I don't know of anybody who has objected to hears-y opinion evidence any more than counsel who has just spoken. Now he is asking for completely hearsay evidence of what somebody told him, and [fol. 1714] that he doesn't know anything about and testified he doesn't know anything about.

Mr. Kittredge: I don't think there is any evidence that All States has any drivers of its own.

Exam. Lawton: No.

By Mr. Lieberman:

Q. Does All States have any drivers directly employed by them?

A. Yes, it does.

Mr. Lieberman: I press my question, sir.

Mr. Burton K. Wheeler: I object to it on the ground that it is hearsay.

Exam. Lawton: I think I will sustain the objection.

By Mr. Lieberman:

Q. Can you tell us what your accident experience has been, for example, during the past year, where you personally have driven?

A. My personal experience is that I don't think we have so many accidents as probably the drivers for the companies.

Q. Tell us——

A. I don't think we have so many accidents as probably the trip leases, either.

Q. What has been the experience with your two employees? I believe you have two men who drive two of your trucks.

A. I have three. I am not driving right now.

Q. You are not driving any?

A. Just at the present time.

[fol. 1715] Q. What has been their experience, accident-wise?

A. I don't have any statistics to substantiate anything that I might say, so——

Q. You personally know when they have an accident, don't you?

A. That is right.

Q. You get reports?

A. That is right.

Q. How many accidents have they had during the year 1948 involving personal injuries?

A. I don't know of any.

Q. Have they had any involving property damage?

A. I think maybe one.

Q. In three vehicles you have had one accident?

A. A very minor one of probably $49 damage which I paid myself.

Q. Would you say that that experience was true during the past several years?

A. Well, not to that extent. I think we have had some chargeable accidents, but very few accidents, that is. It is not more than you can expect from any operation.

Q. Now, with respect to the hours of service of your employees, do you know whether or not they exceed the number of permitted hours?

A. Well, our employees are handled throughout the company just the same as if they were company employees. When they come in, naturally, I look them over, and then the company looks them over. They have probably a two-[fol. 1716] way inspection, you might say. They have to turn in their logs and things like that in order to get paid. Naturally, we look over their check-in sheets when they come in, look over their log books and the company official who does that work does the same thing.

Q. And in what mechanical condition do you maintain your three units?

A. We try to maintain them as near to perfect as possible.

Q. Do you personally supervise that maintenance?

A. Personally, if the repairs have to be made in my home town, I personally supervise those repairs.

Q. Can you make any comparison between the mechanical condition and state of your own equipment as compared to company-owned equipment.

A. I think I could.

Q. Would you make that comparison, please?

A. Look at some of the company-owned equipment and look at some of the owner-operated equipment and they can make the deduction themselves.

Q. They are not here unfortunately. Would you tell us what your observation is?

A. Our observation is that we do take care of our equipment in a general way better than any company-owned equipment, because we pull the same units all the time,

and naturally when they work together we see that they [fol. 1717] are in shape.

Mr. Lieberman: That is all.

Mr. Burton K. Wheeler: What do you do yourself? You said you don't run any of these.

The Witness: I oversee these trucks.

Mr. Burton K. Wheeler: How is that?

The Witness: I oversee these trucks part of the time and then I have some other interests that I run around to.

Mr. Burton K. Wheeler: What other interests do you have?

Mr. Driscoll: I object to that.

The Witness: I don't think that pertains to this.

Exam. Lawton: Objection sustained.

Mr. Burton K. Wheeler: You don't drive any of the trucks yourself?

The Witness: I am not an employee of any other concern, if that is what you mean.

Mr. Burton K. Wheeler: You are not employed by any other concern?

The Witness: That is right.

Mr. Burton K. Wheeler: You have your own private business?

The Witness: That is right.

Mr. Burton K. Wheeler: And you own these trucks yourself, outright?

The Witness: Well, I have a slight mortgage on them. Maybe one of them.

[fol. 1718] Mr. Burton K. Wheeler: And you simply lease your trucks, and you furnish the drivers to the company?

The Witness: I sometimes drive myself. I take up the slack, in other words. If a driver comes in and is sick or unable to go out or has his hours up, and I have a shipment going on that I want to drive, then, I personally get on that truck and deliver it myself.

Mr. Burton K. Wheeler: And, of course, because of the fact that you own three trucks yourself and have that investment—how much of an investment do you have, by the way?

The Witness: I would say around $32,000.

Mr. Burton K. Wheeler: Naturally because of the fact of your investment of $32,000, you make more money than an ordinary truck driver who doesn't own any equipment?

The Witness: I might say here that I pay myself when I drive just the same as the company employee, and I hold my wages separate and distinct from the money that I might gain by this leased equipment. I also balance it against the investment that I have. Naturally if I wasn't making money I would do something else.

Mr. Burton K. Wheeler: Did you ever apply for a carrier's license yourself?

The Witness: No. I was in under the grandfather rights but at that time I wasn't financially able to do it.

Q. You are financially able to do it today?

[fol. 1719] The Witness: If that amount of investment constitutes being financially able, yes.

Mr. Kittredge: Is your business a proprietorship or is it a corporation?

The Witness: My business—I don't know what you mean.

Mr. Kittredge: Well, do you own these vehicles personally?

The Witness: Yes, sir.

Mr. Kittredge: There is no corporation involved?

The Witness: No.

Mr. Kittredge: But title is in the hands of All States?

The Witness: That is right.

Mr. Kittredge: I see.

Mr. Burton K. Wheeler: Did they loan you the money to buy them?

The Witness: They haven't yet.

Mr. Jessup: Could I ask just two questions requiring a yes or no answer?

Exam. Lawton: All right.

Cross-examination.

By Mr. Jessup:

Q. Do you use a truck or trip manifest in your operation?

A. We use a trip manifest. I suppose we do. But it is not in the form of a contract or a lease.

Q. I mean in your regular operation.

A. That is right. We use a trip manifest.

[fol. 1720] Q. You said that you have a sort of a salesmanship relationship with your carrier. Do shippers call you directly or do you receive all your orders through the carrier?

A. Shippers never call me unless I happen to be in the neighborhood and they want something and my carrier referred them to me; that would be the only way.

Exam. Lawton: If there is nothing further, you are excused.

(Witness excused.)

COLLOQUY

Mr. Driscoll: That completes the testimony.

Mr. Eldred: I would like to make one request on the record before we adjourn, Mr. Examiner. There was a very serious accident in the last few days involving an explosion of a large quantity of dynamite. I would like to have Mr. Blanning available and I would like a report as to the conditions surrounding that accident.

Exam. Lawton: The request is noted on the record.

Exhibits 16, 17, and 18 are received in evidence.

(Respondents' Exhibits 16, 17, 18 heretofore marked for identification, received in evidence.)

Exam. Lawton: I should have received 5, 6, and 7, and I will do so at this time, because one of them was simply a resolution introduced by a witness, and the other two were taken from the annual reports that are on file with the Commission. They are received in evidence.

[fol. 1721] (Respondents' Exhibits 5, 6, 7, heretofore marked for identification, received in evidence.)

Mr. Eldred: Mr. Examiner, I don't know which ones they were, but there were several that were offered by Mr. Sutherland. I thought we were going to defer receipt of those.

Exam. Lawton: Yes, but these were offered by another witness.

Mr. Turney, Jr.: Mr. Examiner, has there been any sort of a ruling, first of all, about these filed hearings?

Exam. Lawton: No more than what I have told you.

When these requests come in and we determine where the interests of everybody can be served the best by having the hearings, some announcement will be made.

Mr. Turney, Jr.: Can we count on further hearings and not show up at the October 25th hearing, as far as our witnesses are concerned?

Exam. Lawton: I don't know. I assume that you can, but I wouldn't count on it.

Mr. Turney, Jr.: Mr. Examiner, that places us in a terrible position.

Exam. Lawton: I appreciate that.

Mr. Turney, Jr.: I told you at the beginning that I had other commitments on October 25 and 26.

Exam. Lawton: Everybody does.

Mr. Turney, Jr.: I think that puts a sort of unfair burden [fols. 1722-1734] on me, as to whether I should get my witnesses here or not, and get some other attorney to handle it. Because I have commitments that I cannot break for those two days. Now, we made timely objection to that October 25th date, and strongly urged that if you are going to have regional hearings, you should have the Washington hearing following.

Exam. Lawton: We will probably have another Washington hearing, if we have regional hearings. I am satisfied we will have.

If there is nothing further, we will adjourn until October 25, 1948, at 9:30 in the same building.

(Whereupon the hearing adjourned, to reconvene at 9:30 a.m. Monday, October 25, 1948.)

[fol. 1735] PROCEEDINGS—December 6, 1948.

St. Louis, Missouri.

EARL GIRARD was sworn and testified as follows:

Direct examination:

My name is Earl Girard. My business address, 10 North Clark Street, Chicago, Illinois. I represent the carriers who commonly form the Chicago-Milwaukee Motor Carrriers

Conference and the Chicago Surburban Motor Carriers Association, all being common carriers of general freight. My position is more that of a management service in that I serve top management in all of these companies. I have been in the transportation business, particularly that of the trucks, since 1920. I am familiar with the operation of motor carriers so far as general freight is concerned in probably every phase of the business.

We are here to approach the problem before the Commission in a practical manner. I am not here today concerned with any of the legal problems that present themselves. I want to tell you how we feel about it and why we feel that way.

We are unalterably opposed to the continued practice of trip leasing. We take the position that there are two problems present themselves, the leasing of equipment without manpower by a motor carrier is one question; the leasing of motor vehicle equipment with manpower presents an entirely different one. We are particularly disturbed over the discrimination now being practiced by the Commission in the enforcement of its regulations as pertains to a driver employed by a company regularly, and one who [fol. 1736] floats from one carrier to another. As an illustration, under the hours of service regulation, our carriers who employ regular drivers are required to keep continued record of logs showing the hours of service and other requirements. Where trip leasing is employed a motor carrier is merely required to have in its files, as we now understand the regulations, the drivers log for the one trip that is made for the one carrier whether it be a round trip or whether it be a single way trip. The climax of the situation is that no member carrier employing motor vehicles on a trip lease basis can be in possession of information showing that such drivers were observing the hours of service regulation. I suppose that in our particular territory there are more abuses and more practices that need correction as concern leasing than in any other part of the country. We have asked the Commission previously to require all motor carriers utilizing leased equipment on a trip lease basis to require such motor carrier, even though it be used for one trip, to have in its possession full data

to take it or else. So he took the load and parked the trailer and he went on to New York. Two weeks later they were still hunting for the trailer load of steel and the driver. Now, those kind of instances repeat themselves day by day and innumerable times throughout a day. Whenever these owner-drivers that are not attached in such manner that they have some respect for their employment with a carrier, they just do as they damn please, and in a situation like that, it reflects badly on the public and reflects upon all motor carriers who have tried diligently through these years to build up a reputation for integrity and good service.

Q. Don't you believe it is the duty of the Commission to see that such practices are eliminated so that the faith of the public in the trucking industry may be restored?

Mr. Idol: I object.

[fol. 1761] Exam. Lawton: Has their faith been shattered?

A. You didn't ask me that question, Mr. Examiner, did you?

By Exam. Lawton:

Q. I will ask you, has there been a lessening of confidence on the part of the shipping public in motor carriage?

A. Mr. Lawton, I say this without being critical, and I hope I am not criticized for it. The morale of the trucking industry and the morale of the shipping public as goes to the practices that are now engaged in in this industry are at its lowest ebb since regulation. I believe that the carriers, or most of the carriers are ever willing to observe these regulations that the Commission set out because they believe they are in their good, but when you have several carriers start carelessly avoiding such practices and those practices give that carrier a competitive advantage, you slowly deteriorate the industry to the extent that those that do not like to do it, have to do it, to stay in business and survive, and that is the situation you got today. Most people are utilizing trip lease equipment do not want to do it. They are forced to do it because there are these groups of people or this number of carriers who do it and they have no obligation to render services like any other carriers, so consequently you got the general morale of the trucking

to good transportation. We are degenerating. We are not advancing.

That is all, Mr. Examiner.

By Exam. Lawton:

Q. Mr. Girard, how does this selecting of traffic come about? Is that done by the employing carrier who holds the authority, or by the owner-driver?

A. No. Well, first it is a chain of events. They have used the term gypsy. I believe the carrier that uses that type of vehicles is the gypsy, not the operator. The so-called itinerant driver, and we have, oh, based upon my contact with them, some six or seven hundred such individuals who do not want to tie themselves up to any one company.

Q. Is that Chicago, you mean?

A. At Chicago. I am talking about Chicago. Now, I want to say this: I am not aware of any conditions in any other section of the country except this territory with which I am familiar, and whatever I am saying applies only to the [fol. 1745] territory with which I am familiar.

Q. Are you guessing at that figure of 700?

A. No. That was my experience during the days in which we were cornering all these people at one time. We had those people registered with the so-called joint information office under O. D. T. and we attempted to allot them out to carriers who had a specific war need, tried to channel them where they were supposed to be. There are eleven spots in Chicago where these people have a sort of registration office and the motor carrier needing their services will go over or call up and tell, say what he has got, and what he wants.

Now, getting back to the question you asked me, the owner-driver of the type that operates the trip lease will not handle the so-called LTL freight, dock to dock, for the simple reason that the revenue on LTL freight dock to dock is much lower, has a much lower return to the owner-driver because out of that the carrier must deduct pickup and delivery terminal expenses so that these boys who engage in the trip lease are almost exclusively truck load haulers, or haulers of truck load freight where there are one or two drop-offs enroute to the between points.

Q. You mean they won't work for a carrier unless they get that kind of traffic to transport?

A. That is right. They won't. They walk in your office, you offer them a load of roofing, Chicago Heights to Cin-

[fol. 1746] cinnati, they tell you to go jump in the lake.

Q. What is that?

A. You offer them a load of roofing Chicago Heights to Cincinnati, they tell you to go jump in the lake. They select the kind of traffic, they tell the driver what they will do and what they won't do, and under certain conditions they tell the carriers what they will be paid and what they won't be paid. The control of the so-called trip leasing is wholly within the owner of the equipment, not in the operator.

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

Cross-examine.

Cross-examination.

By Mr. LaTourette:

Q. Mr. Girard, you discussed Rule 3 as it affects interchange of equipment, I believe, as set out in the Commission's Order?

A. I am in an unfortunate position this morning. I forgot my glasses. I got a litter of papers here I could not even read them.

Q. I would like to ask you this, with respect to Rule 3 you are familiar, I take it, with the fact the Commission in that rule purpose to limit the interchange of equipment as between authorized carriers; first, you are familiar with that?

A. That is right.

[fol. 1747] Q. You are also familiar with the fact that the interchange of trailers is confined to situations where the traffic moves from a point on an authorized carriers route to a point on another authorized carriers route, it must be a through movement of traffic?

A. That is right.

Q. Now, have you considered the situation where car-

riers operating between common points might find themselves in a situation where one or the other has a need to augment its trailer fleet on a given date?

A. Trailer fleet?

Q. Yes, and seeks to lease equipment from a carrier operating between the same two common points as served by the first carrier.

A. I believe, Mr. LaTourette, you overlooked what I said originally. I do not believe there is any problem before the Commission as concerns the leasing of equipment as such. The problem arises when man power and equipment are leased or attempted to be leased as a unit. We encourage the interchange of facilities by arrangements between carriers to any degree that will permit those carriers to perform safe and adequate service.

Q. I would like to develop fully the position of the carriers for whom you speak with respect to this feature. First, do they favor what seems to be the intent of Rule 3 that the carrier, say operating from Chicago to Milwaukee, who on a given date needs a trailer may not lease that [fol. 1748], from another carrier operating between Chicago and Milwaukee?

A. No, we do not advocate any such program as that.

Q. Do you understand that Rule 3 in its application would permit that practice being engaged in by carriers?

A. That is my understanding of it.

Q. Take the situation then where a carrier leasing a trailer for interchange at Milwaukee, on traffic going north of Milwaukee, where the carrier operating north of Milwaukee would in turn deliver to the original carrier a trailer, which trailer the original carrier would take back from Milwaukee to Chicago to load. Has your group taken any position with respect to whether that practice should be permitted under Rule 3?

A. We believe the entire practice, or all practices now in vogue and those which we may invent in the future because of necessity, that pertains to the interchange of trailer equipment without power between authorized carriers should be as free as possible, and to use an illustration, we now interchange loaded trailers to the tune of about 50

per day, that is loads coming from points beyond our territory or loads going beyond that, and we have several different methods of doing that. Where the haul is not more than 200 miles beyond Chicago we will trade trailers. When the other carrier gives us a loaded trailer we will give him one of our empty trailers. When the haul is more than 200 miles from Chicago we do not trade trailers because of the haul. We take the trailer of the originating [fol. 1749] or other carrier and have it loaded and brought back to that carrier. We pay them a per diem for the use of the equipment plus a mileage rate and the divisions of joint through rates are divided in just the same manner as had there not been any interchange of equipment at all.

Q. Well, if I understand your position, and if I do not state it correctly you will please correct me, you advocate the greatest possible flexibility in the matter of interchange of trailers as between authorized carriers?

A. I certainly do.

Q. And your position with respect to the leasing of power units as between authorized carriers is that that practice should not be permitted by the Commission under any rule that is promulgated?

A. I think I understand what you are saying, but that is not what I said. I said the leasing of power equipment without a driver is one thing. The leasing of power equipment controlled and owned by an individual and operated by that individual is another thing. The second situation is the one that we believe needs correcting. The leasing of equipment as equipment without man power is something, I believe, that this Commission will find that they do not have too much control over, but whenever you put the man power on that equipment that changes the whole aspect of the transaction and brings that driver and the equip- [fol. 1750] ment wholly within all the Commission's powers and all their jurisdiction, in my opinion.

Q. Well, is this your position then with respect to leasing power units as between authorized carriers, that where that leasing is done without a driver accompanying the vehicle that the Commission has jurisdiction, too?

A. That seems to be the exception now. I do not believe there is any problem. I do not think any of the abuses we

are talking about, at least that I am talking about, emanate from the leasing of equipment without man power. We lease equipment from Fruehauf Trailer Company. Certainly there is no problem over that.

Q. I am in agreement with you on that, but I am simply trying to develop—assuming that the Commission does have authority under the statute to regulate the leasing of power units as between authorized carriers, you see no real objection to the leasing of that power unit when a driver does not accompany the unit, but if the unit is driven by the employee of the lessee, the power unit, then you see no objection to it?

A. No, I see no objection, and any regulation that the Commission might evolve certainly would not be harmful to the industry, I do not think, where it concerns the equipment without man power.

Q. Do you advocate that if there is jurisdiction to make such a rule, that the rule permit the leasing of power units as between authorized carriers where the driver of the [fol. 1751] lessee operates the power unit?

A. I certainly would. I did not mean to beat all around the lot, but I tried to answer you, Mr. LaTourette.

Exam. Lawton: Do you have anything, Mr. Floyd?

Mr. Floyd: Mr. Examiner, my name is Floyd, representing the Local Cartage National Conference. I would like to have the record clear on this point: the Local Cartage National Conference has endorsed the trip leasing plan of the American Trucking Associations as to all of our members with the exception of the class or group known as the heavy haulers group, and it is only on behalf of the heavy haulers group that I appear here this morning, because so far as the other parties are concerned, Mr. Idol will handle that when he handles the matter for the American Trucking Associations.

Exam. Lawton: Proceed with your cross-examination.

By Mr. Floyd:

Q. Mr. Girard, you in your early opening statement said that you are unalterably opposed to trip leases. Are you acquainted with the manner in which heavy hauling, that

is the hauling of heavy machinery and objects of that sort is conducted at the present moment?

A. I am only familiar with them in a vague way, Mr. Floyd. It is part of the industry I have never had cause to be involved in, the carriers who engage in heavy hauling. I know what it is but I do not know of their problems or their practices.

[fol. 1752] Q. It might be then followed by your statement in some fashion to say that it might apply to some particular class of operation instead of all classes of operation, as you said.

A. I qualified that, sir. I said that I am talking about common carriers of general commodities as is recognized by certificates under that particular phase.

Q. I see, and you had no intention?

A. I did not make any such statement.

Q. Of covering that group?

A. No.

Q. I did not get the last part there, and that is the reason I wanted to qualify that statement.

A. I tried to make that clear, Mr. Floyd.

Q. So that so far as your were concerned, you were not speaking of a particular class such as heavy haulers, of which you have no knowledge of their operation at the present moment.

A. I am not speaking of any specialized group in the industry, only that group which is called common carriers of commodities generally.

Q. And all of your remarks are directed to that?

A. My entire appearance has been with that class.

By Exam. Lawton:

Q. The only carriers who you represent are people in that class?

A. That is right.

Exam. Lawton: Thank you.

[fol. 1753] A. By the way, Mr. Examiner, Mr. Floyd made a statement that I believe I would like to qualify also. We are opposed to the report and do not join in the report of the leasing committee of the American Trucking Associations. That is why we are here.

By Mr. Lordan:

Q. Mr. Girard, how broad an area do the carriers you generally represent, speak for, I am talking now with respect to States?

A. States?

Q. Yes.

A. Three States, Illinois, Indiana and Wisconsin.

Q. Illinois, Indiana and Wisconsin; speaking with respect to the carriers or certificate holders, Mr. Girard, who utilize entirely the services of trip lease operators or who do so predominantly, I think that was the word you used, have you had any experience with the cost experience of these carriers as might be related to their proof in rate cases?

A. I have had too much, sir.

Q. Do they have the type of records, Mr. Girard,——

A. The what?

Q. Do they have the type of records of cost experience, Mr. Girard, which would enable any State Commission, or this Commission, to determine what the level of their rate should be?

A. I am going to try to answer your question the way I can understand it, the way I understand it. A carrier who utilizes leased equipment will show in its records, that is the carrier, some items of administration, property, sales, [fol. 1754] and one unit item called transportation. The transportation account covers the rental or the lease of equipment, and I could not, and I doubt whether anybody else could, reach into, reach beyond the veil of the owner-driver and attempt to show what it costs him to operate, for this reason: I like to stay away from this question but I got to answer it. The sole purpose of the trip leasing, I would say the sole purpose but one of the predominant factors that regulates the use of trip leasing gets itself away from the so-called requirements of our wage scales, of the fact that he can only drive ten hours and has got to be off eight hours. It removes him entirely from the ordinary requirements of a carrier who the unions can reach, and who the Commission can readily reach, so that any cost you might develop among those carriers would not be a normal cost, it would not be an actual cost. You would have to take those instances where they have done

those things, that the regular carrier can't do, and then you would have to build your cost from there on.

By Exam. Lawton:

Q. Did you ever hear of an owner-driver going broke?

A. Did I?

Q. Yes.

A. There are so many of them that it is pitiful. That has caused us our greatest concern. I will just give you a concrete illustration: We had to liquidate one of our carriers who operated between Chicago, Milwaukee and She-
[fol. 1755] boygan, Wisconsin, in the early fall of last year, and a very unfortunate situation came up. The president died during the period of this, and the bank was the person that had complete control of the situation. At the time this happened the bank was very happy to finance any equipment financing that was necessary. Six months later, when we called upon the bank for that particular financing they told us that they had withdrawn from motor carrier financing altogether, because a large number of single unit producers who had went to work for motor carriers, and particularly I guess it was in the class that we called the G. I., those who went out and bought a truck and went to work for a motor carrier who found that the picture was not as rosy as he thought, and the equipment went bad. They got their instructions, according to the president's remarks to me from the Reconstruction Finance Corporation, and it is generally known, and has been known as long as I have been in the business, that the fatality of failures in, or the mortality of failures in the one driver class, is very, very great. I would say that 50 percent of them do not survive the rigors of the revenues they can get and the cost that they have got to operate under.

By Exam. Lawton:

Q. Now, you understand I was asking about the man that owns the truck working for the carrier.

A. I am talking——

Q. Your answer is directed to that?

A. I am talking about both classes, that goes to one driver

[fol. 1756] who is exclusively employed by one carrier, and I am likewise talking about the itinerant who has no steady affiliation, the mortality rate is very, very great.

Q. There is no place where there are any statistics available on that?

A. Reconstruction Finance Corporation could give you all that you need because they in some manner or other became involved in the G. I. loans that went to buy this equipment, that these individuals bought shortly after the war. I think they have a very comprehensive record of it.

Exam. Lawton: Did you have some further questions?

By Mr. Lordan:

Q. What is your experience, and hence your information, Mr. Girard, as to whether or not trip leasing is engaged in by carriers for the reason that it is more economical to do their operation that way than it is to own and operate their equipment, through their own driver, in the territory in which you are now speaking?

A. You got me somewhat puzzled. I do not believe I understand your question. May I have the question read?

(The question was read.)

A. It is rather hard for me to answer that question. You are talking about our drivers. We do not trip lease.

Q. I am talking about certificated carriers, certificated operators from this Commission who engage in trip leasing by the use of owner-operator equipment, which they engage in, do they do that, in your own experience and is it [fol. 1757] your opinion they do that because it is more economical for them to conduct through the owner-operator operation, which they are certificated to carry on that way, or would it be more expensive for them to operate their own equipment?

A. Well, I believe anybody that leases equipment leases equipment because they believe that that owner can operate it cheaper than the company can. However, that is not the predominating situation. With the large volume of traffic that is and has been available to the trucking industry within the last five years in our territory it is a very simple prop-

osition to go into the trucking industry without even a sales force. All you have to do is reduce your rates two cents under everybody else and you will have a flow of traffic over night. You can go in business without a dollar. You can operate without a dollar and in the long run you can take out all the profits and pour nothing back into equipment investment, into terminal investments, and so forth. When you get right down to it, economies can be legitimate or economies can be illegitimate. I say there are illegitimate economies arising from the use of leased equipment, yes.

Q. One further question, Mr. Girard. Did you see a pamphlet addressed to all class one motor carriers of property entitled, "an open letter", by the head of Hadley Express Company, Incorporated?

[fol. 1758] A. It never came to my attention, sir.

Mr. Lordan: Thank you.

By Mr. Wheeler:

Q. Mr. Girard, is it your opinion that a shipper is entitled to a certain standard of responsibility and care when he gives his property to a carrier certificated by the Interstate Commerce Commission?

A. You are drawing me out into a realm I would like to ask you what you are referring to. I do not understand that as it relates to leasing of equipment. If that is what you meant, as it relates to leasing of equipment, it would be very difficult for me to answer that.

Q. Well, in Exhibit 2 that was filed in this hearing by Director Blanning, he has a category on page 5 entitled "avoidance of carrier responsibility". He calls attention in that——

A. I can't read with you. I am sorry. I will have to listen to you, sir.

Q. He calls attention in that category to the fact that carriers all depend on leased equipment, depend for their ability to move traffic upon the number of gypsies which communicate with them for loads on a given day. He also points out that the carriers pay owner-drivers on a percentage basis and deny responsibilities for claims. He points out further that shippers of household goods usually expect to have services from the carrier that gives the

estimate, but that when a carrier services the shipment on another carrier's authority, the shipper may be required [fol. 1759] to handle claims with the carrier which it never heard of.

A. Oh, you draw me into the realms of household goods carriers. That is one end of the field I have nothing to do with. I am not going to try to answer your qusetion.

Exam. Lawton: What is the question now?

By Mr. Wheeler:

Q. My question is, whether in your experience you have encountered the same situations that were enumerated by Director Blanning in his Exhibit No. 2.

A. Yes, there are a great many of them in existence today. Some companies require their owner-drivers where they handle freight on an interline basis, on a joint line basis, to be responsible, that they see that the settlements are made with the other carriers; if they are not, the owner-operator himself stands responsible for it, and in situations like I have mentioned the shipper has a very definite responsibility where we have restricted our tariffs so that the joint rates won't apply when the power and the trailer of the originating carrier goes to the destination. I believe I understand your question to be this, I mean, I understand the answer to your question to be in this manner: the public are directly affected by the method of operations of any carrier, if they be sloppy or if they be good.

Q. Well, doesn't the, using your term "sloppy", as a method of expressing failure to exercise a standard of care or responsibility which is exercised by certificated carriers [fol. 1760] who do not engage in trip leasing, do you not believe that that failure to exercise that standard of care reflects on the entire industry?

A. Oh, there is no doubt about it. Let me give you an illustration. I think I know what you are driving at. The Hot Point Division of the General Electric Company, ordered a truckload of steel out of Pittsburgh here several months ago. The owner-driver that picked the load up did not want to come to Chicago, instead he wanted to go to New York and see his girl friend. The company told him

industry in our territory, as I said before, at its lowest ebb since the enactment of the Motor Carrier Act, and that goes to my own personal frame of mind, Mr. Examiner.

[fol. 1762] Q. Even though they have more freight than they can transport?

A. That is not the situation, Mr. Examiner.

Q. Oh, I am sorry. I got that impression.

A. No, I say that at the end of the war, the situation today is that traffic is off, I would say on a general average of 10 percent of what is has been, and I doubt whether any of our carriers have ever transported all the traffic that their power units would produce transportation for. You take a 100-mile haul, if there is available traffic one power unit can be operated steadily 24 hours a day. That situation has never been reached, and there is not too much traffic. It is distributed wrongly.

Exam. Lawton: Had you completed, Mr. Wheeler?

By Mr. Wheeler:

Q. Mr. Girard, do you believe that without the regulation proposed by, or placed in evidence and embodied in the notice of proposed rule-making in this hearing, that the Commission will be able to regulate this trip leasing so as to eliminate the evils that have sprung up in the industry as you have portrayed it?

A. I have not been able to promulgate in my mind just what type regulations respond to the conditions. I believe after the Commission get through with this proceeding that in their wisdom they can develop from what jurisdiction they have such regulation as may respond to what this record will develop. I have no recommendations. If we can't get it from the Commission we will get it from the [fol. 1763] States.

By Exam. Lawton:

Q. Or from Congress?

A. Or Congress. We do not intend to go to Congress by the way, Mr. Examiner. We believe that is the duty of the Commission.

Exam. Lawton: Who is next?

By Mr. Todd:

Q. Mr. Girard, is it not a fact that your Chicago-Milwaukee group sometime prior to the time the Commission instituted this investigation gave some thought and consideration to the problems which are present by reason of trip leasing.

A. Yes. We have given the Commission probably more trouble than any group of people in the country on this question. We have now formal complaints pending charging illegal operations, charging violations of the rules and regulations, in every instance we have had a chance to get that information, and for three or four years we have been hammering the staff of the Commission at Chicago until we have gotten to the point where we are ashamed to go with any more complaints.

Q. Prior to the time that your group gave consideration to this particular problem, were there any of the members who were engaged in the practice of using trip leasing operators?

A. Yes, during the war as I said, Mr. Todd, the bars were let down. If there was freight to move and it had any near resemblance of being essential, we moved it some how, some way, and during that period, as I said, every practice in the book was engaged in to move traffic. After the end of the war we began to take stock of ourselves to see [fol. 1764] wherein those practices that had originated during the war had to be cleaned out, and in taking stock of ourselves we analyzed this trip leasing and we felt that that was one of the programs that did not respond to good practice so far as our carriers were concerned, and we proceeded to correct it. One startling thing that occurred, that caused us to accelerate our situation, a carrier who utilized leased equipment considerably filed for temporary authority to extend his operations into Milwaukee, Racine and Kenosha and in support of his application it was shown that he had been required to trip lease both his power and his trailers to our carriers because we did not have adequate facilities. It did not take us very long to understand just what our position would be if the practice of trip leasing was continued any longer. It had been put in as a war emergency and we finally had it thrown up to us that

we did not have adequate facilities. That started us to try to clean house. We have more than adequate facilities, always have had, probably always will have.

Exam. Lawton: Mr. Girard. I suggest that you answer these questions and then stop, and then we will get through that much sooner.

The Witness: All right.

By Mr. Todd:

Q. What steps did your group take to clean house, as you describe it?

A. All the carriers discontinued trip leasing.

[fol. 1765] Q. Excuse me.

A. All the carriers discontinued trip leasing.

Q. Now, did your group at any time employe anyone to make a private investigation of trip leasing between Chicago and Milwaukee?

A. Investigation of service hours, hours of service violation, not trip leasing.

Q. By hours of service violation?

A. Yes.

Q. Did your investigation reveal anything pertinent with respect to violation of hours of service as applied to trip leasing between those two points?

A. The result of the investigation did not give us enough information that we could base any accurate conclusions on, Mr. Todd.

Q. Now, Mr. Girard, is the traffic between Chicago and Milwaukee, completely balanced, or is it heavier in one direction than it is in the other?

A. Well, it is much more, it is heavier, pardon me, it is heavier northbound as compared to southbound. There is about ten to 20 percent differential.

Q. With those carriers in your group who I understand now either all own their own equipment or have it, any leased equipment is under a long term arrangement, is that correct?

A. There are 17 pieces of equipment now being leased [fol. 1766] under long term owner-driver arrangement.

By Exam. Lawton:

Q. Out of how many?
A. Out of 3,000.
Q. 3,000 units?
A. Yes.

By Mr. Todd:

Q. The remainder is company owned, is that correct?
A. Sir?
Q. The remainder of it is company owned?
A. The remainder of it is all company owned.
Q. With respect to the equipment that is both company owned and leased under a long term arrangement, do the carriers operating that equipment make any particular effort to balance their traffic between Chicago and Milwaukee?
A. Mr. Todd, I did not catch that.

Mr. Todd: Will you read the question?

(The question was read.)

A. I do not quite understand, Mr. Todd.

By Mr. Todd:

Q. Let me put my question in a little different way, Mr. Girard. In the transportation between Chicago and Milwaukee, can a carrier who either leases equipment on a long term basis, or who owns all of his own equipment operate any substantial number of empty miles, and still operate at a profit?
A. Not too many of them.
[fol. 1767] Q. So, isn't it true that for that reason these carriers make particular efforts to balance their traffic as between those two points?
A. That is one of the things that we exert the most effort toward.
Q. Now, where a carrier is using equipment on a trip lease basis, that is where he takes, has a load from Chicago to Milwaukee and employs an itinerant trucker to make that trip for him, and then has no further responsibility with respect to the itinerant carrier, when he gets to Milwaukee,

does that type carrier have the same incentive to balance his traffic as the man who owns and operates his own equipment?

A. No, he does not have any expense attached to the empty miles. The leased truck is on its own after it gets to Milwaukee, goes wherever it pleases.

Q. Isn't that one of the competitive advantages that the carrier who uses trip leased equipment exclusively has over the man who either owns all of his equipment, or has his equipment under a long term lease?

A. In our territory that is the predominant competitive factor.

Q. Now, where you have a carrier who is trip leasing equipment on just one way basis, in your experience does the carrier using that type of trip lease make any effort to assume any responsibility to the public after the truck has delivered its load at destination?

[fol. 1768] A. Well, the carrier could not, and the truck owner and truck were not in the employ of the carrier, the carrier would have no responsibility, their insurance would not cover.

Q. Do you know whether the carriers insurance is applicable after the truck delivers its load?

A. I have never found any insurance policy so providing.

Q. I believe you were also discussing some 600 of the itinerant truckers that were in existence in and about Chicago during the war period?

A. That is right.

Q. If those truckers are your independent contractors or operators, or do they feel that they are attached to any particular carrier?

A. I have never found a classification yet that they fall in. I do not like to term them gypsy. I just call them itinerant, an itinerant person that seeks employment wherever he desires and works as he pleases.

By Exam. Lawton:

Q. By the way, I wonder if we could have some agreement as to whether the term gypsy should apply to the

certificated carrier who operates exclusively through owner-drivers, or whether it applies to the owner-driver?

A. I have heard it used as applied to both categories. I just wonder what the distinction is.

Mr. Todd: Mr. Examiner, I think in considering this problem you more or less have to use the terms that the industry uses, and they have always considered the gypsy to be [fol. 1769] a man who owns and operates the motor truck more or less on his own, going from one carrier to the other.

By Mr. Todd:

Q. Isn't that right, Mr. Girard?

A. I would agree that that is the general term applied. I did not select to use it.

Exam. Lawton: That is my understanding, but Mr. Girard said it might also be applied to a certificated carrier.

Mr. LaTourette: They refer to him as the gypsy operator as distinguished from the gypsy who leases the vehicle.

Mr. Ellis: I would like to say, Mr. Examiner, that there are some of us who do not concur in the use of this term, which was first injected into this case by Director Blanning, we think it is a matter that should not be all embracive covering every body that leases equipment.

Exam. Lawton: Besides, it is not very dignified.

Mr. Todd: I tried to use the term itinerant trucker, and that probably is more descriptive.

Exam. Lawton: I think so.

By Mr. Todd:

Q. With respect to the itinerant trucker, Mr. Girard, operating between Chicago and Milwaukee, will you tell me, the traffic moving northward is heavier than the traffic moving southward, will those itinerants handle low-rated freight northbound out of Chicago to Milwaukee, feight like roofing, for example?

[fol. 1770] A. By the way, Mr. Todd, I believe I got to clear up one point. We do not use them. We have abandoned the use of the so-called itinerant operator, and I illustrated that the overall practice in Central Territory is

backing up on us just as much as if had employed that practice.

Q. I believe I understand that you are not using them today, but let's go back to the time when your carriers were using them. Would the itinerant trucker, where the traffic was heavy moving northbound, as it is between Chicago and Milwaukee, would he handle low-rated freight, I believe you used the example of roofing?

A. Ordinarily, no. Those persons are paid on a percentage, ordinarily they are paid on a percentage of the revenue derived from the particular load; therefore, they are well aware of what commodities carry the low rates and what commodities carry the high rates, and they are very selective in choosing which load they will haul and which load they will not haul.

Q. Now, where the traffic moving southward is light, will they handle other low-rated freight that is moving out of Milwaukee to Chicago?

A. Ordinarily they won't handle anything that they do not want to handle.

Q. I know, but where your traffic is light, as you say it is, from Milwaukee to Chicago, will they handle any, under those circumstances, handle low-rated freight?

[fol. 1771] A. If it is available, yes, and that is all that is available. They will refuse to pull the dock to dock loads involving a congregation of our LTL shipments.

Mr. Todd: That is all I have. Thank you.

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

We will take a five minutes recess.

(A recess was taken.)

Exam. Lawton: Come to order, please. We will resume the hearing. Who is next on cross-examination?

By Mr. Ellis:

Q. Mr. Girard, when you took the witness stand, if I understood you right, you said you were appearing here

representing the Chicago-Milwaukee Conference and the Chicago Surburban Group, is that correct?

A. That is correct.

Q. An examination of the official transcript discloses that at the Washington hearing you entered an appearance as counsel for those compaies. That is correct, is it not?

A. To be made of record, yes sir.

Q. Now, my question at the outset here this morning, are you here as counsel testifying, or are you appearing as an officer of either one of these conferences; if so, which?

A. I am general manager of both of the conferences. I have not participated in this proceeding as counsel and do not intend to.

[fol. 1772] Q. Now, this Milwaukee-Chicago Conference, is that composed of carriers who operate principally between Chicago, Illinois and Milwaukee, Wisconsin?

A. No.

Q. Where do they operate principally?

A. It is formed principally for those carriers who operate to or from those points, Mr. Ellis.

Q. Well, then, it is true it is composed principally of people who run between Chicago and Milwaukee?

A. No, it is not. Well, what do you mean, principally. I would say that the majority of the carriers, Mr. Ellis, are made up where their operations are generally within about 100 miles of Chicago, Illinois and Wisconsin with that fraction of Indiana over in Lake County.

Q. I am talking about Chicago-Milwaukee Conference. You say that their general territory was within about 100 miles of Chicago, is that right?

A. The principal operations of the carriers are connected there.

Q. How far is it from Chicago to Milwaukee approximately?

A. We call it 100 miles, Mr. Ellis.

Q. So those carriers that are members of that group are short haul carriers, is that right?

A. Oh, sure.

Q. How many of the approximately 100 that you say you are appearing for here, are members of the Chicago-Mil-

[fol. 1773] waukee group, approximately?

A. I think there is about 26 of them, Mr. Ellis.

Q. Does that conference comprise all the carriers who operate between Chicago and Milwaukee under certificates issued by the Interstate Commerce Commission?

A. No.

Q. There are others, are there not?

A. I think there are 3 or 4, Mr. Ellis.

Q. As to the Surburban Group, are those carriers who generally operate in the Chicago commercial zone as defined by the Interstate Commerce Commission?

A. No.

Q. Where do they operate principally?

A. Principally in the entire State of Illinois.

Q. Well, the name is somewhat of a misnomer then, is it not, Cairo, Illinois, is not a suburb of Chicago.

A. Mr. Ellis, you have to understand our regulations in Illinois. We call it Chicago-Suburban Motor Carriers Association to distinguish from local cartage operations. Those are people that are domiciled within the 50-mile area around Chicago that we call the so-called trade area of Chicago. Now, in Illinois a motor carrier is authorized to operate between all points in the State of Illinois.

Q. Well, you would say then that they are principally intrastate operators in the State of Illinois?

[fol. 1774] A. I would say that they are, traffic being transported is not, but I say so far as their operations performed within the State of Illinois, approximately 75 percent would be performed there, Mr. Ellis, but that is not intrastate traffic.

Q. Well, the approximate 100 members of the two groups that you represent, then about 75 of them are this other group, is that right?

A. That is right. I think those figures are correct, Mr. Ellis.

Q. Of their traffic, how much of it would you say in interstate and how much intrastate in the State of Illinois?

A. About 50 percent. I have the accurate figures, but I can't read them.

Q. I understand that. Now, do I understand that none of the carriers belonging to these organizations that you represent are now using trip lease vehicles?

A. None of them, sir.

Q. How long has it been since they have employed trip lease vehicles?

A. The Milwaukee carriers have discontinued using trip leases, oh, several years ago, Mr. Ellis. The Chicago Suburban Carriers, the only place in which they become involved in trip leases to speak of, is the permitting of power and trailer equipment of another carrier to operate over their rights. None of them employ owner-drivers, to the best of my knowledge, and none of them lease equipment for a one-day period that I know of.

[fol. 1775] Q. Well, how long has it been since either one of the groups that you represent employed trip lease vehicles of the kind you are objecting to?

A. I would say since several years after the war, Mr. Ellis. During the war, they, like everybody——

Q. It has been several years past?

A. It has been several years.

Q. Then all of your information under these examples that you have been pointing out here this morning, if they are first-hand come from experiences that you had during the war?

A. No, no.

Q. Well, you are not using any now, and haven't for some years, as I understand it.

A. We still have the trip lease problem, Mr. Ellis.

Q. You do not have any actual experience with it is the point I want to bring out.

A. Oh, yes, I know of everyone that shows up on our road checks, Mr. Ellis. I have intimate knowledge with every one of them.

Q. You have intimate knowledge of all the trip leasing that is going on in the Chicago area, is that right?

A. So far as it pertains to the operations conducted by our carriers.

Q. And how do you get that information, Mr. Girard?

A. By road checks.

Q. Who makes those road cheks?

[fol. 1776] A. Our highway drivers.

Q. Do they stop the vehicles of other trucking companies on the highways and demand to know where they are

going, and whether they are leased, and information of that kind?

A. No, Mr. Ellis. We furnish all of our drivers with a large booklet indicating the certificated, the names of the certificated carriers that operate at the various points. We ask those drivers to report to their management any trucks given identification that are other than those that are found. The reports are then made to me. We investigate their certificate authority and we make a complaint to the Commission that they were operating.

Q. If one of the drivers that works for one of these companies sees a vehicle out on the public highways and makes a report to somebody who in turn reports to you, and that is all the information you have about what they are doing, is that right?

A. No. If you would have let me finish I would have completed, Mr. Ellis. We are then informed if this equipment goes up without any label on it that would identify it so far as any certificated carrier, we then turn that information over to the District office of the Commission in Chicago. We are then informed if it was operating on a trip lease with any carrier, and then we proceed to file a formal complaint if it is operating on a trip lease on the grounds that the hours of service are being violated. If it was not under trip lease to any carrier we proceed to make com-
[fol. 1777] plaint about individual operations.

Q. Do you file complaint that the hours of service are being violated whether you know they are or not, is that it?

A. They have to be violated on leased trip, on trip leases, Mr. Ellis.

Q. But you have no information about that, that is just an assumption on your part?

A. The same kind of assumption you would reach if you were interpreting those laws.

Mr. Ellis: What did he say?

Exam. Lawton: Read the answer,

(The answer was read.)

Mr. Ellis: I suggest that it be stricken. I would like to have him answer the question.

By Exam. Lawton:

Q. Would you make it more repsonsive?

A. I arrive at my conclusions, Mr. Ellis, the same way you do, yes sir. I do not know what other answer to give you, sir. I am not trying to be impertinent.

By Mr. Ellis:

Q. All I asked you, whether or not you are just assuming the hours of service are violated and have no actual information on the subject.

A. Every time we report an hours of service violation we have an honest view that they are being violated; we have knowledge that the carrier trip leasing the equipment had only a log for the one trip, he had no knowledge of the [fol. 1778] other activities by the operator of the equipment.

Q. And you had no knowledge either of what the operator of the equipment has done prior to that log, did you?

A. No, indeed, that is what I am quarreling about.

Q. So it is just an estimation on your part that the hours of service were being violated?

A. Mr. Ellis, you just have to listen to me now. You are getting twisted up. We complained on the grounds that the carrier utilizing that piece of equipment did not have drivers logs of a continuing nature that would assure the owner, at least the carrier that that particular piece of equipment was being violated, was being operated in full conformity with the hours of service.

Q. Yes, you complained that there was a possibility that the hours of service might have been violated?

A. No, I am not. I am making an accurate statement that that carrier who trip leased that piece of equipment was not in possession of information as to the activities of that particular driver for a 70-hour period sufficient to warrant the carrier to know that it had been in conformity.

Q. Well, you had no information as to what the driver was doing either, did you?

A. Who, me?

Q. That is right.

[fol. 1779] A. Before I was through I would, yes.

Q. But when you filed the complaint?

A. When we filed the complaint, yes, we are satisfied that the driver who leased that particular piece of equipment had only the drivers log for the one-way trip or the round trip, which ever is represented.

Q. I do not like to persist in this, but I would like to have him answer my question so I can proceed to something else.

By Exam. Lawton:

Q. I think it is true, isn't it, Mr. Girard, you did not have any direct knowledge until somebody investigated?

A. Before we filed the complaint we had not sufficient knowledge to warrant a complaint, that is.

Q. How did you get that knowledge?

A. We would get that knowledge from several sources, from the carrier who may have trip leased the piece of equipment to Milwaukee, from the actual carrier. That may be one of our own carriers, Mr. Ellis, that we are complaining about.

By Mr. Ellis:

Q. I think I developed what your position is so I will pass that now. There were circumstances that you gave a specific example, and the one I want to ask you a question about it, and if you answered it I did not understand your answer. You gave an example of a shipment of steel from Philadelphia destined to Milwaukee. Do you recall that?

A. Yes.

Q. The Examiner asked you if the originating carrier accepted that without any authority to serve Milwaukee, [fol. 1780] was that the fact?

A. That is correct.

Q. What?

A. That is correct.

Q. Did the originating carrier accept it without making any arrangements or showing on the bill of lading, shipping document of any kind, that there was to be an interchange in Chicago?

A. He very definitely did not.

Q. He did not make any such arrangement?

A. That is right.

Q. The carrier purported to transport this all the way

from Philadelphia to Milwaukee beyond the scope of his own authority, is that right?

A. That is right. He did not purport to do it, yes, he did it.

Q. What was the name of that carrier?

A. Riss and Company.

Q. When did that occur?

A. What is today, Monday?

Q. Sir?

A. Is this Monday? Last Wednesday. I got many other illustrations similar to that.

Q. That is the one I want to find out about.

A. A load of steel going to the Hot Point Division of General Electric, weighing 49,270 ponuds. The driver of [fol. 1781] the Riss and Company was named Delasa.

Q. I notice in all of the examples which you have given, you have referred to movements of steel. Is that where these alleged improper practices principally occur?

A. No, Mr. Ellis, no. They predominate in that particular field because of the peculiar circumstances which exist with steel.

By Exam. Lawton:

Q. Was this particular violation which you described, have you given the details to the local office of the Commission?

A. Oh, yes. We have also filed a formal complaint. All of the things that I have talked about are all in possession of the Commission one way or the other.

By Mr. Elfis:

Q. I understood you to say, Mr. Girard, that in your opinion the Interstate Commerce Commission has been very lax in its enforcement of its rules and regulations and its hours of service regulations, is that correct?

A. That is right. That is my opinion by the way, Mr. Ellis.

Q. I understand that. Without attempting to agree with you I now want to ask you if you think that the adoption of more rules and regulations will cure a situation when you say they can't enforce the ones they have now?

A. The reason I understand that they can't enforce the ones that they have now, that there is some question in their own mind as to what jurisdiction they have, as to the proper application of their own rules. I expect that the [fol. 1782] Commission in its wisdom certainly can adopt rules that can be enforced, if the present ones can't be enforced, I am here to see that they do, if they will, please, adopt some rules that can be enforced and the- enforce them.

By Exam. Lawton:

Q. Would you say that the present lack of what you consider proper enforcement is due to lack of sufficient personnel on the part of the Commission to investigate these practices?

A. Oh, sir, I am glad you brought that up. I certainly do not believe that the Commission just sits back and did nothing about this thing because they did not want to do anything. I think the lack of personnel adequate to cope with what happened after the end of the war is largely responsible for the situation. We believe that particularly the Chicago office of the Commission is understaffed by at least ten men, and we believe those people are doing more than a reasonable, or expending more than a reasonable effort to enforce what they can with what they got, and we certainly ask no more of the personnel of the Commission. We believe this, Mr. Examiner, that there has not been enough clarification as to just what the Commission's position was respecting leasing.

Q. Now, let's stop right there. Assume a situation, that the situation is clarified and the Commission puts out definite rules and regulations, would they still have that same problem with respect to enforcement that there would [fol. 1783] not be sufficient personnel? In other words, they would have to get more money from Congress and employ more people, wouldn't they?

A. They got to employ more people to do the job, there is no question; but if the truck industry can have clarified one way or the other just what their position is with respect to this leasing question, I believe that most of the motor carriers will do a voluntary job of complying. The great trouble, Mr. Examiner, is that there has been so much said

about jurisdiction, so much said about this, that the trucking industry itself just don't know what the situation is and they are doing everything, that is what I talk about when I talk about morale.

Q. Mr. Girard, if I understood you, you said you had been to the District Office of the Interstate Commerce Commission so often that you were "ashamed", using the quotations, if I have it down correctly, to go in there any more, is that what you said?

A. On this particular question, Mr. Ellis.

Q. Are we to infer by that that you think the District Office did not pay any attention to your complaints, or they did not find any merit in them?

A. No.

Q. Well, which is it?

A. I just hesitate in asking three or four men to devote their extra hours to trying to satisfy the complaints of our carriers. They are greatly overworked, and I today am [fol. 1784] ashamed to burden them with any more than I reasonably can.

Q. Is it a fact, that the Chicago office has found that numerous of these alleged complaints of yours were without any merit whatever?

A. No, indeed, that is not the situation at all. They found that they did not know themselves just where they stood on the questions that were raised.

Q. In other words, you were complaining about something that might not be either violation of law of the rules and regulations of the Commission, isn't that right?

A. I was complaining?

Q. Yes.

A. No, not in my way of thinking.

Q. But they would not do anything about it, is that it?

A. Why, they corrected a great many of the complaints that we filed. Correction was had; oh, we have had wonderful results from that particular phase of it. We got all the cooperation we could ask for.

Q. I am unable to reconcile your statement that the Commission's enforcement has been so lax as to be deplorable, in one breath, and then in the next you tell us the Chicago

office has cooperated splendidly and cleaned up numerous situations.

A. Yes. There are numerous other ones you can't get to their attention, Mr. Ellis.

[fol. 1785] Q. It is the ones you can't get to their attention that you are complaining about, is that it?

A. Oh, no, Mr. Ellis.

Mr. Ellis: That is all.

Exam. Lawton: Anyone else?

By Mr. Diehl:

Q. Mr. Girard, you spoke of the insurance policy of the carrier not covering the movement of the vehicle, leased vehicle after it had delivered its load.

A. I said after it was released by the carrier.

Q. All right. Are you familiar with the various State requirements as to insurance coverage?

A. In our particular State, Mr. Diehl.

Q. Do the States that you have in mind have motor vehicle responsibility laws?

A. Illinois has.

Q. How about Indiana?

A. I am not too familiar with that Statute.

Q. Assuming the three States had the normal responsibility law would not a person or member of the public who might be injured by the movement of this unloaded discharged vehicle be covered by that law?

A. If that man had insurance and had the necessary responsibility, yes, Mr. Diehl.

Q. Suppose he didn't have insurance, under the Motor Vehicle responsibility laws, wouldn't he be covered just the same?

[fol. 1786] Mr. Wheeler: I object to this. This is asking the witness for a legal conclusion.

Mr. Diehl: The witness has expressed a considerable number of legal opinions or conclusions in the course of his testimony.

Exam. Lawton: Read the question.

(The question was read.)

A. Would he or the public?

By Mr. Diehl:

Q. Would not the public be protected just the same whether he had insurance policy or not, under the normal motor responsibility laws?

Mr. Todd: Mr. Examiner, I object to that question. From what little I know about the responsibility laws in the various States, there is no normal law. This man would have to know not only the provisions of the various Acts in the three States, but the Court decisions thereunder. Until a proper foundation is laid as to his knowledge, I think the question is objectionable.

Mr. Diehl: I will withdraw the question and ask the witness another question.

By Mr. Diehl:

Q. With respect to the State of Illinois, which I think you said you are familiar with—most of his people confine their operations to that State, according to his testimony.

Mr. Wheeler: Mr. Examiner, I have the same objection. I don't know how conclusive it is, but the last exhibit furnished by mail to the parties in this proceeding entitled, [fol. 1787] "abstract of State Laws and regulations pertaining to interchange and lease of vehicles by motor carriers", there is practically nothing under the State of Illinois and nothing under the State of Indiana.

Mr. Diehl: Mr. Wheeler is speaking about an entirely different thing, Mr. Examiner. I did not mean to pursue the matter, and in the sake of speed, we will just forget it.

Exam. Lawton: All right.

By Mr. Diehl:

Q. You said, Mr. Girard, that your association made an investigation with respect to the violation of hours of service between Chicago and Milwaukee, was that?

A. That is right.

Q. I believe you said that the information obtained was not sufficient to base any action upon, is that what you said?

A. I said on one occasion we had employed a process of making an investigation concerning hours of service violations by several carriers.

Q. Now, if the information which you obtained as a result of that investigation was insufficient to base any action upon, what consideration did you people give to the safety and hours of service, and as a result abandon the use of leased equipment?

A. Mr. Diehl, I believe that we exercise more effort and spend more money to comply with the safety requirements of the Commission than do any carriers in the [fol. 1788] country, if I understood your question.

Q. That is not the question. I am not attempting to criticize the efforts of your association. What I would like for you to tell me is to what extent was the matter of safety and hours of service taken into consideration when your associations arrived at the conclusions that they would no longer use leased equipment?

A. That requires a rather lengthy explanation, Mr. Examiner. He asked for it. I will have to do it that way.

Q. You take the floor.

A. Number one. We found that on a single trip lease the utilization of a unit and driver moving from Chicago to Milwaukee as an illustration, and released at Milwaukee, we found that he was then on his own and without too much guarantee of security to the public while he was sauntering around Milwaukee or traveling to any point that he might lease, not Milwaukee, we had no knowledge where he went after he was released at Milwaukee. Insofar as being able to investigate the driver on a trip lease, for instance, to have in our files a certified copy of a doctor's statement that the driver was fit and capable of following the regulations of the Commission, could not be observed. The next thing was that we had no knowledge of the hours of service performance by those people prior to entering into the employment of one of our carriers. We had no way of getting it. The drivers would not furnish it on those [fol. 1789] occasions we asked to have it furnished. While we were trip leasing vehicles owned and operated by other

people, our own equipment and our own employees were sitting at our docks idle. Our drivers were all paid on a guarantee of 9 hours per day, and they make one round trip between Chicago and Milwaukee. That takes 6 hours, and any time our drivers are not working while some piece of equipment is trip leased means that we are eating into our economies. Oh, Mr. Diehl, I would have to go on and on at length.

By Mr. Diehl:

Q. Well, that is a very interesting statement that you are making, but it is still not telling me what I asked you, Mr. Girard.

A. I tried to answer you, Mr. Diehl. If I understood, maybe I am dense. I am sorry, sir.

Q. The point I want you to tell me about is, I assume that somewhere in the course of the activities of your associations you had some deliberations which were indulged in by the members before you decided to eliminate the use of leased equipment, is that correct. At a meeting or conference of some sort, I take it, of the membership, or was it done by a committee?

A. No, we do not employ committees at all. As I told you, we deal with our top management. Shortly after the war, as I explained to you, we had cause to analyze our position, try to see what we had left after we came out of the war.

Q. You explained that to us, Mr. Girard. All I want you to tell me, at what stage of these deliberations and to what [fol. 1790] extent did you consider the safety factor as determining whether or not you would continue to use leased equipment?

A. Right at that time, sir.

Q. All right. And when was it that you decided to eliminate leases because it left you open to extension of other folks' rights?

A. Right at that time, sir, shortly after, as a result of this particular investigation, step by step we eliminated whatever we found, tried to eliminate, sir, whatever we found to be objectionable to our form of operation.

Q. Now, the objectionable thing that you were driving

at at the time was to try to keep other people out of securing rights over the lines that were certificated to your membership, isn't that right?

A. Oh, what is the use of fooling, Mr. Diehl? That is part of my job.

Q. You know that is a fact.

A. That is part of my job.

Q. The primary objective?

A. Yes, sir.

Q. So the reason that you and your association eliminated the use of leased equipment was primarily to demonstrate to the Commission and the world that you and your people had necessary facilities and did not need trip leases, hence did not need any other carriers coming in and securing [fol. 1791] rights over your territory, isn't that right?

A. I would have to answer all your questions emphatically yes.

Mr. Diehl: That is all I have.

By Mr. O'Brien:

Q. Mr. Girard, did I understand you to say that you have in your organization 17 pieces that are leased with drivers at the present time?

A. That is right, on a term contract.

Q. How long a term is that on the average, Mr. Girard?

A. One year.

Q. Are some less than a year?

A. That is the only 17 we have, and they are in there under a peculiar circumstance. The drivers are paid a salary, the same wages that we pay our regular employees, who do not own equipment, and they are brought into the organization subject to the supervisors and everything else, and the same identical men.

Q. Could you give me just two different carriers, for instance, so I can identify them; in other words, which carrier leases to whatever carrier?

A. Normally it is not one carrier leasing to another carrier. It is one carrier employing 17 pieces of owner-driver equipment owned by an individual and operated

by the individual under long term leases to that one carrier.

Q. These are all individually owner-operators?

A. Individuals, that is right, yes sir.

[fol. 1792] Q. Now, in these cases——

A. They are not permitted, by the way, to work for or transport freight for any other carrier, but are solely the employees of this one company.

Q. You say they are for a period of a year?

A. Yes sir, the outstanding contract is for a year. I do not know how much of it has expired.

Q. Just how are they paid, on a use basis or a percentage of the revenue basis?

A. They are paid on a varying weight basis; 20,000 pounds paid so much, for 30 they are paid so much; 30 is our maximum load. We can haul 32, but 30 is the basis. The driver is paid the regular scale of wages, the company pays the social security in the same manner as they do their other employees; withholding tax is taken out and compensation is paid. In other words, those 17 men are not distinguished from the company employees who operate the company equipment.

Q. Let's get back to this revenue question. In other words, you say they are paid on a weight basis which depends on the amount they haul, doesn't it?

A. That is right.

Q. In other words, it is not the same as a strict use basis that you have to pay so much whether the truck is loaded or empty.

A. It has guarantees on it, yes.

Q. I didn't get that.

[fol. 1793] A. It has guarantees on the contract. I am not familiar with the exact amount right now. I do not remember the exact amounts.

Q. When you speak of the long term lease, you did not mean to infer that there was a certain rate per mile paid empty or loaded.

A. No, it is not on a mileage basis. It is the trip——

Q. Just a moment. You were not inferring that there was any use basis that was covering these leases; in other

words, that for a term of a year these men were being hired at a certain amount per mileage or per use, in other words?

A. That is right.

Q. In other words, they realized that the rates would vary over the period of a year, so it would be inequitable to be pinned down to a whole year, would it not, on a mileage basis?

A. For the use of the equipment the driver was compensated as a driver under the prevailing Union scale that we have with the unions. The fluctuations as to the use of the equipment depended on how many trips it made, and so forth, but it was all for equipment, as I understand it.

Q. But you can see that there are exceptions to this particular rule where the driver and equipment are leased together, are there not?

A. Oh, yes.

Q. In other words, with two large organizations, say two motor carriers within your organizations, that one has a surplus of equipment and drivers at the time, and for [fol. 1794] a period of say three months leases, you can see an exception in that particular case?

A. It is never the employee, we never interchange employees. There may be instances where one carrier will lease a trailer or maybe two, so far as to lease a power unit, from another carrier, but they never interchange employees. The companies have varying rules that pertain to their drivers. One company won't permit more than 35 miles an hour; another one 40 miles, and the interchange of those employees is not conducive to keeping up with the company that they came from—just don't do it.

Q. But there is one particular concern which has leased 17 from independent owner-operators, as I understand it?

A. That is the individual who owned the equipment.

Q. Suppose the same motor company goes to a large organization outside of your concern, and leases 17 pieces with the driver on a use basis for a period of three months or so?

A. They would lease the equipment. They would not lease the man.

Q. I am asking you, supposing they did this, would you find an objection to this?

A. To leasing the equipment without the man?

Q. With the man.

A. Yes, if it did not conform to what I am talking about. [fol. 1795] Q. Well, let's have a meeting of the minds here. Now, I am asking you, supposing one of your member organizations finds themselves in need for the next three months of some extra equipment, and one of them has already gone out and leased 17 pieces from owner-operators, is that correct?

A. That is correct.

Q. Supposing another one goes along and comes up to some large organization, say Hayes, or one of these other motor carriers, and they have 17 pieces, and they say, "yes, but we want to make sure that our equipment is kept in good order. We will only lease those with the driver. You pay him the same rate as usual", and it is paid on a use basis. There is not going to be any percentage of the revenue. It is going to be on a use basis, whether it is loaded or empty, and you pay for the use of that truck, and you pay the driver a certain rate. Do you find any objection to that particular arrangement?

A. Oh, I don't find any particular objection except it is impracticable.

Q. In other words, it is comparable, though, to the practice that is in effect at the present time with the 17?

A. No. It involves a lot more than that. Those men have seniority, and they will have to transfer from one local to another. You present a very impractical situation from the way the industry operates. It might be.

Q. Then, your objection is along a labor line, is it? [fol. 1796] A. No, no. It is just impractical from the way we operate. These drivers are all schooled, and I guess about 90 percent of our carriers maintain supervisors who do nothing else but train and watch the conduct of these drivers, and to get men in there for a temporary period, three months, come from some other company and are going back, it would not be conducive to the kind of operations that these fellows conduct. It might work some places, but it would not work there.

Q. Do you mean these other companies maintain a high standard as far as drivers are concerned?

A. Between Chicago and Milwaukee.

Q. Take a reputable concern.

A. They might, but there are no two companies who operate under the same standard of operating personnel, instructions.

Q. Don't they all conform to the Interstate Commerce Commission rules?

A. Oh, yes. They go so much farther than that, but they are not standard. For instance, one company has a speed limit of 35 miles. He has hookup instructions, he is supposed to hook up in a certain way, and so forth and so on. You are getting down to a very fine point. It is impractical. It is impractical.

Exam. Lawton: I thought there was something in your question about the compensation, whether it be on the basis of use or mileage rather than percentage of revenue. I can't see what your answer has to do with that

[fol. 1797] A. He is pursuing it. I am not trying to——

By Mr. O'Brien:

Q. All right. I asked the original question whether or not you found anything wrong with that particular setup, and the only thing that you told me is wrong with it, is apparently a personnel problem.

By Exam. Lawton:

Q. In other words, what is wrong with leasing equipment on the basis of paying so much a mile or so much for a definite period of use; isn't that the purport of your question?

Mr. O'Brien: That is it exactly.

A. So far as leasing equipment on a useage basis and not leasing the operator, but employing the operator in the same manner that you would any other employee outside of the practical situation I see nothing wrong with it, if that answers it.

Mr. O'Brien. I think that is all.

Exam. Lawton: Are there any other questions over here?

By Mr. Jones:

Q. Pursuing that same subject a little farther, Mr. Girard, I presume you would have no objection to rules and regulations permitting that practice so it could be enjoyed in communities where it would be practical?

A. Under the conditions that I set forth?

Q. Yes; to make sure that we understand.

A. Yes.

Q. That is where the driver may accompany the equipment but is placed on the payroll of the payee?

[fol. 1798] A. And becomes an employee of the company?

Q. And become an employee of the company.

A. I would not see any objection to it.

Q. Would that be true, in your opinion, as between the leases, between Carriers as well as a lease by a carrier of an owner-operator piece of equipment?

A. Well, that would apply to one, it certainly would apply to the other, sir. It would be a far better arrangement, it would be far better and would work out much better if it was between carriers rather than between an owner-operator.

Q. What would be your particular objection to a lease of equipment between two certificated carriers where the driver accompanied the equipment without transferring the payroll?

A. On a trip basis?

Q. On a trip basis, yes sir, between carriers.

A. Well, that would only be a continuation of what we got. It would result into all the objectionable features we find with the leasing program in our territory.

Q. There would be no particular difficulty as to the drivers log, or anything like that, would there?

A. Yes, there would. If the lessee—did I understand you to say on a trip basis, sir?

Q. Yes sir, between certificated carriers.

A. If the lessee were required to keep the drivers' logs, have a copy of the doctor's certificate in his files, I mean the drivers logs be kept for that period, that would estab-

lish that in a 70-hour or 60-hour period that that particular [fol. 1799] driver had not driven over 10 hours a day and had his required rest and had not been on duty over so much, then I think there would be no objection to it, but whether it is leased between carriers or between other people, unless that one particular rule is in effect we make a farce out of the whole question of leasing. If it is legitimate, I see no reason why a carrier would not want to comply with that.

Q. It is simply a question of enforcement and regulation, not so much as type of rule?

A. Well, right now it appears to be the type of the rule that is necessary to accomplish that and clarify it but it would have a great deal to do with raising the morale of the industry as concerns what they may or may not do as leased.

Q. Let's stay away from theoretical discussion, confine it to factual evidence. Do your groups have emergencies when they must pick up equipment immediately?

A. Pick up equipment, what do you mean, sir?

Q. Well, pick up equipment, augment their own for immediate delivery?

A. Oh, no, that rarely happens in our kind of an operation.

Q. Then, you would not, of course, be familiar with the necessities of carriers who are forced with that problem?

A. I would have to say no because I do not know where it exists.

Mr. Jones: That is all I have.

[fol. 1800] By Mr. Idol:

Q. Mr. Girard, would the 1947 reports to the Interstate Commerce Commission for your carriers indicate that they have done no leasing of equipment except for these 17 units that you mention?

A. I doubt whether those reports would reflect the actual operating situation.

By Exam. Lawton:

Q. Doesn't that come under purchased transportation on the reports, where you lease equipment?

A. No.

Q. It does not?

A. No. Some carriers throw it in what they call that item, call transportation. It would not, answering your question, no, the reports would not reflect it.

Q. Well, they are not making out their reports properly then, are they, if they do that?

A. It is not my understanding that all leasing falls under rental of equipment.

Q. Well, as I recall—I am not too familiar with the uniform system of accounts, but there is one item called purchased transportation, I believe.

A. Transportation is the item. It just says transportation. Those carriers utilizing that leased equipment do not report anything but transportation, and I am sure that any leasing that is done with—well, it would depend on the policy of the company, how they keep their accounts, Mr. Idol.

[fol. 1801] By Mr. Idol:

Q. I mean, you made the very definite statement that none of the companies have done any leasing with the exception of these 17 units that you mentioned.

A. I said are doing it at the present time, sir.

Q. I understand, you say that they had not done any for the past several years, since the war.

A. Trip leasing?

Q. Yes.

A. Trip leasing.

Q. Except for these particular 17 units.

A. That is correct.

Q. That is the only exception?

A. The only one I know of, Mr. Idol.

Q. That is what I want to find out, whether you are certain enough about that fact to be sure the annual reports to the ICC which require a showing as to expenditures for leased equipment, as to whether those particular reports would show no expenditures for leased equipment except for the carrier using these 17 units.

A. I would say that would be the situation, unless they

were reporting that under transportation, as some of the carriers are.

Q. Sir?

A. Unless they are reporting that under transportation, as some of the carriers are.

[fol. 1802] Q. There would not be any expense to report under purchased transportation of leased equipment if they are not leasing.

A. Mr. Idol, to be frank, I don't know how they are reporting that. We had an arrangment with the railroads, you know, I don't know whether it expired this year, I know of last year, where the North Shore Railroad transported our loaded or empty trailers on flat cars between Chicago and Milwaukee. That was employed for a good many years. I don't know whether that discontinued last year or the year before, and that is why I am hesitant in answering you about the accounts of those carriers.

Q. You would not be certain whether the expense would be reflected in the reports of these carriers for purchased transportation?

A. There would be an item reflected purchased transportation if this North Shore Railroad transaction expired before 1947, and my memory just does not serve me clear enough to say whether it occurred in 1947 or 1946. If it did occur and they did it in 1947, there would be purchased transportation on there, but it would not be represented by lease of equipment, that is what I am trying to say to you. I am not sure of my times.

Q. Wait a minute. Are you certain enough of your point to be sure transportation accounts would include no expense except for those 17 units and the North Shore transportation setup?

A. To the best of my knowledge, Mr. Idol, yes.

Q. Can you be certain of that?

[fol. 1803] A. No, I could not, Mr. Idol, because as I said before——

Q. Thank you, sir. Now, there is one other thing, I believe you said the R. F. C. instructed a bank to withdraw some financial support for a carrier which resulted in its liquidation.

A. No. The R. F. C. did not instruct the bank. The

R. F. C. had a conversation with the president of the bank. I don't know whether the R. F. C. instructs bankers or not, but the president of the bank got his information from the R. F. C. contract.

Q. Is that just hearsay information?

A. Well, the banker told me, yes. I did not see the transaction.

Q. It is strictly hearsay?

A. The repossessions I did not see, no.

Mr. Idol: That is all I have.

By Mr. Pieroni:

Q. Mr. Girard, as I understand your testimony, your objection to trip leasing between carriers is not so much to the lease itself but to the possible lack of information on the part of both carriers as to the hours driven by the employee that goes with the equipment, is that correct?

A. My experience is with the practice.

Q. Well, if the regulations with respect to the reporting of hours of service were such that the lessee carrier, when he leases equipment from a lessor carrier would know the hours actually driven by the driver that comes with that equipment, then your objection would be removed, would it not?

A. One of my objections would be removed.

[fol. 1804] Q. What other objections would remain with respect to trip leasing between certificated carriers?

A. Well, that runs to our whole objection, that fundamentally it is not good for the trucking industry.

Q. It would be an economic objection then, it would not be with respect to safety, would it?

A. Oh, yes.

Q. Now, what objection would you have with respect to safety of operations?

A. Well, we consider that any trucks operated by a motor carrier not being in possession of a carrier long enough to ascertain its qualities from a safety standpoint is not conducive to our meeting the safety requirements of the public or either of the Commission.

Q. Do you believe that inspection records perhaps on

the part of the leasing carrier, lessee, carrier, would that meet that objection, or do you think it would go beyond that, he would have to have personal knowledge of the equipment?

A. I believe that any motor carrier permitting any equipment to operate under its name is morally and physically obligated to know that such equipment is in a safe condition in response to the Commission's regulations, and I believe that trip leasing, and those things that occur when trip leasing goes on, are not conducive to meeting those particular obligations.

Q. Let's assume both carriers are responsible carriers who operate equipment. Do you have any reason to be- [fol. 1805] lieve a carrier wishing to lease additional equipment from another carrier, even on a trip basis, would be any more lax in inspecting and in choosing equipment which would be as safe as the equipment used on its own lines, or equipment permanently leased by itself?

A. Sir, I am sorry, maybe my answers haven't been correct. I understood you to be talking about owner driven equipment being trip leased. Now, if you are talking about motor carrier equipment being leased as between carriers without drivers, I mentioned before, there is no trouble there.

Q. I am not talking about that. I am talking about the leasing of motor equipment with drivers between carriers on a trip basis. As long as the driver of the lessor carrier goes right with the equipment for that trip lease, as I understand, you object to that?

A. Yes, because it is nothing but an expansion of the so-called trip leasing that is now going on, if I understand what you are saying to me.

Q. You are understanding clearly what I am saying, but I want to know just exactly what your objections are. As I understood your objections they are, first, that the leasing carrier would not have knowledge as to the hours driven by the driver that came from the other carrier and, therefore, he might be violating the hours of service regulation, perhaps a driver may have already driven 60 hours [fol. 1806] for that carrier, and I am assuming for the purpose of this question that some regulation with respect

to reporting hours of service could be worked out so that the company who leases this equipment with the driver would know exactly how many hours that driver had driven.

Exam. Lawton: Are you talking about a lease?

Mr. Pieroni: A trip lease.

Exam. Lawton: Between carriers?

Mr. Pieroni: Between carriers, and the equipment having the driver with it.

Exam. Lawton: The lessor carrier owning the equipment?

Mr. Pieroni: Either lessor driven owning equipment or having control of the equipment.

Exam. Lawton: How do you mean control?

Mr. Pieroni: I take this position——

Exam. Lawton: Do you mean lessor equipment being used, owner-driven, and he turns around and leases it to another driver?

Mr. Pieroni: That is right. We will take the case of his member who has 17 permanently leased owner-operators as I understood him. Assuming that one of those owner-operators regularly leased to X company under a year lease, as I understand it, the company to be willing to lease that equipment on a trip lease basis to another certificated carrier for a trip lease, I want to know what objection he has to that?

A. That is nothing but the present trip leasing arrange-
[fol. 1807] ments. I do not know how you can lease a man.

By Mr. Pieroni:

Q. Well, we will assume that because of labor regulations and other regulations a man goes on the other company's payroll just like your man does, I mean that is common in the industry and there is a regular fixed fee, either on tonnage or mileage for the equipment, but it is only for one trip, for one day.

A. It has the same objectionable features to it that we find with the existing practices of trip leasing.

Q. Do you represent any carriers who have certificates authorizing service in one direction only?

A. No.

Q. You are not acquainted with their operating problems then directly?

A. Not intimate with them, but I could not miss their problems, and be in the position I have been in the industry.

Mr. Pieroni: That is all.

By Mr. Woll:

Q. Mr. Girard, in response to the Examiner's question as to whether there were many owner-operators going broke, you stated that the number was pitiful, and that the mortality was very great. Do you have an opinion as to why the mortality is great?

A. Well, I would have to say, sir, that the whole fundamental system is wrong. It is not conducive to making money. And owner-driver operations are not conducive to making money except in those very isolated instances, [fol. 1808] or they may be frequent, where a person and his equipment attaches itself to a very reliable carrier and that carrier treats them in the same manner he would one of their employees, where he guarantees them employment and guarantees them a living. In that instance your mortality rate would not be high; but where a person buys a truck and tractor and trailer, and places himself on the open market to handle, as is the practice in our territory, on a percentage of the gross receipts, his assurance of employment is so erratic that it sums itself up to be almost impossible. The first year, while his equipment is new and he is going a fine job wearing it out, did not take into account the depreciation in equipment, he may believe he is making money. The difficulty and the mortality takes place when that equipment begins to wear out and he is trying to get new equipment and unfortunately the supply of trucks, tractors and trailers has now reached a proportion, I mean the manufacture of them, and distribution has reached a proportion where a very small down payment does not get a truck, so in the first place, ordinarily the man does not have a large enough investment in his own equipment to be really concerned whether he is going to come out or not.

By Exam. Lawton:

Q. Even though he is skimming the cream of the traffic, as I believe you pointed out?

A. That lends itself to a situation where the mortality rate is not as high today as it will normally be. Let me [fol. 1809] give you an illustration, if an owner-driver picks up a load for Chicago, a New York carrier, and leaves Chicago, goes to New York, and he is through with that carrier, he may lay around New York three or four days before he gets a load back. He is not being paid a salary, he is getting no wages. He has no income. He has an expense, so when the end of the year itself get around, and adds itself up, he has not normally made any more for himself than he would with wages, and he has still got that piece of equipment.

Mr. Ellis: I would like at this time to move to strike out the last answer of the witness, because he was talking about what might happen in an affair between Chicago and New York, and in qualifying himself he said he had no information about other sections of the country, and his information was confined to Chicago, a small portion of Chicago and southern Illinois and a small portion of Indiana.

A. I mentioned New York Mr. Examiner, because I did represent a carrier who operates between Chicago and New York, and I know what the situation is with respect to that particular company.

Exam. Lawton: I will let the answer stand.

By Mr. Woll:

Q. Well, I suppose you could use other cities as illustrative?

A. I picked New York because I happened to be familiar with the situation.

[fol. 1810] Q. In your opinion is it possible for an itinerant operator who respects the Interstate Commerce Commission rules relative to hours of operation and safety of operation, is it possible for him to make a living?

A. Why, his chances of coming out whole are consider-

ably lessened unless, as I have illustrated before, he has attached on a permanent basis, long term agreement, with a good company who see to it that he gets employment on the seniority basis the same as if he was a regular driver. Stepping aside from that picture, your itinerant or—and I choose to say itinerant rather than gypsy, gypsy operator, he just does not have the chances of making money the same as these fellows that have some guarantee. In fact, their whole existence in my personal opinion is made possible by the fact that they can drive 20 hours, or drive 15 or drive 12, they can get to a town and unload their load, they can go over to another carrier and get a load right back under those kind of conditions, it takes those kind of conditions to make them come out whole, and that is what is going on and has been going on a long time.

Mr. Woll: Thank you very much.

Mr. LaTourette: May I be indulged one question that arises by reason of the cross-examination?

Exam. Lawton: Just one.

By Mr. LaTourette:

Q. Mr. Girard, in view of your experience with the motor carriers in your area, do you have any opinion as to whether [fol. 1811] or not the absence of rules governing leasing have contributed to this difficulty of enforcement of the safety rules and regulations?

A. Very definitely so, sir.

Q. Well, you were asked whether or not in the light of your statement that there was difficulty in enforcing the safety regulations, whether it was desirable that at this time the Commission promulgate any further rules. Do you recall that?

A. Yes sir.

Q. Now, is it your statement that the publication of further rules would aid in this enforcement problem with respect to safety regulations?

A. Most assuredly they will aid. In fact, that is the only course we have left open to us, that is the only reason I am here to see——

Mr. LaTourette: That is all.

By Mr. Eldred:

Q. Mr. Girard, specifically some of the items of expense that a carrier has who owns its own equipment as contrasted with a carrier that uses trip leases exclusively or predominantly, now, in connection with the investment, which carrier has the larger investment?

A. Mr. Eldred, I don't know whether I am getting dense, I actually don't understand your question.

Q. Put it this way, then. Does a carrier that owns its own equipment require a larger investment than a carrier operating with an owner-operator on trip lease basis or [fol. 1812] predominantly using trip leases?

A. Well, the owning his own equipment as an investment, the carrier who owns no equipment and resorts to the utilization of trip lease has no investment whatsoever.

Q. Now, is it your experience that that carrier using trip leases either exclusively or predominantly, do they employ training or screening of their employees?

A. No, they do not ever know who they are. There is times they never see them even.

Q. So that is an item of expense which carriers of that type save, is that correct?

A. That is right.

Q. Now, what about vacations, do they pay for vacations, those owner-operators?

A. No; they have no responsibility about them—a percentage of the revenue or some other arrangments on the one particular trip.

Q. How about overtime, are they subject to any overtime that you know of?

A. No, that is the one thing that the gypsy or itinerant can do that a regular employee can't do.

Q. How about paid holidays?

A. Well, as I said before, I answered it, the motor carrier leasing the equipment on a trip lease basis has no responsibility for anything except to pay that carrier an [fol. 1813] agreed basis on one particular trip. He loses the responsibility so far as all of the things that go to make up the standard employment.

Q. I would like to just list those and see if you agree, with them, so we get it down specifically for the record.

What about administrative costs, that is the carrier, operating carrier with equipment owner operating under trip leases?

A. Well, the administrative cost of the carrier having its own fleet and an organization will be considerably higher than the carrier having trip leases, the trip lease carrier will have some administrative cost.

Q. Now, how about unemployment compensation, social security taxes?

Exam. Lawton: I don't want to interrupt, Mr. Eldred, but haven't we got all of that already in the record?

Mr. Eldred: I don't think so.

Exam. Lawton: The carrier utilizing owner-operators does not have any of these items of expense.

Mr. Eldred: I would like to get them specifically listed, if I might. I do not think they have been specifically detailed, Mr. Examiner.

Exam. Lawton: It seems rather obvious that they would not have that.

By Mr. Eldred:

Q. Well, how about sickness and other benefits, do they provide any?

[fol. 1814] A. No.

Q. Do they maintain shops and investment in machinery, equipment to repair?

A. Very, relatively very few of the leased truck operators do.

Q. With that type of carrier who usually pays the cargo loss and damage?

A. Of course, the carrier will pay it in the first instance. How he disposes of that later on is a question of what arrangements he has made with these people.

Q. What is the general arrangement?

Mr. Ellis: I want to object, Mr. Examiner. This witness testified that neither of the associations he is connected with has employed leased equipment for several years, and yet here he is trying to give testimony about what carriers who do use leased equipment do or do not do, and I say he is not qualified to give any such testimony.

By Mr. Eldred:

Q. Well, so we know—have you had any experience with these types of carriers, Mr. Girard?

A. Yes, throughout the entire territory. In fact, I own stock in a motor carrier that operates between Chicago, Illinois, and Michigan, and I think I am am pretty well versed and pretty well experienced in the entire Central Territory.

By Mr. Diehl:

Q. May I ask, Mr. Girard, do I understand that there is a prohibition by the State of Michigan on trip leasing?

[fol. 1815] A. No. There is no prohibition. You have got to secure approval and authority before you can trip lease equipment, a very nice arrangement.

Q. Does your company use it?

A. Not that I know of.

Mr. Eldred: I just have one question.

Exam. Lawton: All right.

Mr. Eldred: And that is all.

By Mr. Eldred:

Q. How does the carrier, what is the carrier's arrangement with the trip lessor, owner-operator, usual procedure with reference to the payment of cargo loss, who bears it in the final analysis?

By Exam. Lawton:

Q. If you know.

A. Well, that arrangement varies so much that I could not say, anymore than the carrier operates it.

Exam. Lawton: He does not know.

By Mr. Eldred:

Q. Now, as I understand your testimony, Mr. Girard, is it your opinion that one of the most important rules is four (h), proposed rules, and that is a rule which requires the driver of a vehicle to be on the payroll of the lessee?

A. That would be very helpful.

Mr. Eldred: That is all, sir. Thank you.

Mr. Diehl: I have one question, Mr. Examiner.

Exam. Lawton: Now, hereafter, I want you to get through with your cross-examination at one time, otherwise we will never get through, where there are so many counsel [fol. 1816] who have to cross-examine. All right.

Mr. Diehl: I have one question.

By Mr. Diehl:

Q. Did you on behalf of your association ever file formal complaint with the Interstate Commerce Commission against one or more members of your own association resulting from trip leases?

A. Yes.

Q. Did you answer "yes"?

A. Yes.

Mr. Diehl: That is all, Mr. Examiner.

Exam. Lawton: If there is nothing further, you are excused.

(Witness excused.)

Exam. Lawton: We will recess now until 1:30.

(At 12:15 p. m., a recess was taken until 1:30 p. m. of the same day.)

[fol. 1817] AFTERNOON SESSION

1:30 p. m.

Exam. Lawton: Come to order, please.

Are there any additional appearances?

Mr. Minor: The name is E. G. Minor. Address, 1535 North 7th Street, St. Louis, 6, Missouri, representing the Western Trucking Company, Inc. I am admitted to practice before the Commission.

Mr. Morrow: Mr. Examiner, I would like to ask a question on the two exhibits we received by mail, the one headed "Abstract of State Laws", have they been given an exhibit number?

Exam. Lawton: They will not be introduced at this hearing, as I understand it, but will be introduced at the Wash-

ington hearing possibly through Mr. Blanning, who is subject to further cross-examination at that time.

Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

Mr. Ellis, you may call your witness.

Mr. Ellis: I will call Mr. Gotfredson.

May these exhibits be marked for identification at this time?

The first one, is a paper showing the caption "Transamerican Freight Lines, Inc., Detroit, Michigan. Statement showing comparison of outbound tonnage hauled by company-owned units and hired-operated units. Period of [fol. 1818] Three Months Ended August 31, 1948".

That will be marked Exhibit No. 19.

Exam. Lawton: That may be marked Exhibit No. 19.

(Exhibit No. 19, Witness Gotfredson, marked for identification.)

Mr. Ellis: We are submitting for identification as Exhibit No. 20, the paper bearing the caption, "Transamerican Freight Lines, Inc., Detroit, Michigan. Statement of outbound loads showing comparisons of those hauled by company-owned equipment and hired-operated units. Period of Three months ended August 31, 1948".

Exam. Lawton: That will be Exhibit No. 20.

(Exhibit No. 20, Witness Gotfredson, Marked for identification.)

Exam. Lawton: These are one-page exhibits, I understand.

Mr. Ellis: We are submitting for identification as Exhibit No. 21, the paper bearing the caption, "Transamerican Freight Lines, Inc., Detroit, Michigan. Statement showing empty mileage and increased cost by terminal stations if the tonnage now handled by hired operated units was handled by company owned equipment. Period of one month ended May 31, 1948".

Exam. Lawton: That will be Exhibit No. 21.

(Exhibit No. 21, Witness Gotfredson, marked for identification.)

[fol. 1819] ROBERT B. GOTFREDSON was sworn and testified as follows:

Direct examination.

By Mr. Ellis:

Q. State your name to the Examiner, please.

A. Robert B. Gotfredson.

Q. Mr. Gotfredson, there has been distributed to the parties and to the Official Reporter, and to the Examiner, of course, a prepared statement which I wish you would now read although I suppose I will interrupt you once or twice.

Exam. Lawton: Go ahead.

A. My name is Robert B. Gotfredson, and I am President of Transamerican Freight Lines, Inc., whose principal place of business it at 1700 North Waterman Avenue, Detroit, 9, Michigan.

The Transamerican Freight Lines was organized by myself and members of my family in 1931, at which time I became president of the company and still continue in that position. The capital stock of the company, except for a few shares held by employees and persons closely connected with the company, is owned by myself and members of my family. The operating authority of the company is contained in certificates issued by the Interstate Commerce Commission in Dockets MC-10761 and various subs thereunder.

In general, our operating authority covers the area bounded by New York and Philadelphia in the East, Milwaukee in the North, Kansas City on the West, and Louisville in the South. We have twenty-three terminals located [fol. 1820] in the following cities: Buffalo, New York; Chicago, Illinois; Cincinnati, Ohio; Cleveland, Ohio; Columbus, Ohio; Dayton, Ohio; Detroit, Michigan; Erie, Pennsylvania; Flint, Michigan; Indianapolis, Indiana; Jamestown,

New York; Kansas City, Missouri; Louisville, Kentucky; Milwaukee, Wisconsin; New York, New York; Peoria, Illinois; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Rochester, New York; Saginaw, Michigan; St. Louis, Missouri; Syracuse, New York; Toledo, Ohio.

The operating certificates of the company include authority to serve intermediate and some off-route points along our routes of travel. In addition to serving the main terminals mentioned above, we serve many of these intermediate and off-route points in our daily operation.

By Mr. Ellis:

Q. Now, Mr. Gotfredson, I want to interrupt you a moment. This morning there was on the stand Witness Girard, of Chicago, Illinois, who identified himself as, among other things, general manager of an association known as Chicago-Milwaukee Operators Association, or something like that. Does your company operate as a common carrier under certificate between Chicago, Illinois and Milwaukee, Wisconsin?

A. We do.

Q. How long have you done that?

A. Prior to 1935.

Q. Are you a member of the association which Mr. Girard [fol. 1821] is representing here this morning?

A. We are not.

Q. He also indicated that he represented another association which had members that serve limited territory in Indiana around Chicago, and the Chicago Commercial Zone in intrastate and interstate throughout the State of Illinois. With that in mind, I want first to ask you if you operate in the suburban area around Chicago, Illinois, including the Commercial Zone in both Indiana and Illnois, as defined by the Interstate Commerce Commission?

A. We do.

Q. Do your serve suburban points near Chicago but outside the Commercial Zone?

A. Yes.

Q. Do you serve intrastate in the State of Illinois an extensive territory under certificates granted you by proper authority of the State of Illinois?

A. We do.

Q. Do you conduct interstate operations in the State of Illinois over numerous routes and serving numerous points and places?

A. We do.

Q. In connection with those operations are you a member, or identified in any way with the Chicago Suburban Association, identified by witness Girard?

[fol. 1822] A. We are not.

Q. Now, will you proceed with your statement?

A. The general office, home terminal, and garages located in Detroit, Michigan, are owned by the company. In addition, the company owns twelve other terminals located at Buffalo, New York; Chicago, Illionis; Cleveland, part; Columbus, Ohio; Indianapolis, Indiana; Louisville, Kentucky; New York, New York; Pittsburgh, Pennsylvania; Rochester, New York; St. Louis, Missouri; Syracuse, New York; Toledo, Ohio.

The other ten terminals operated by the company are on a lease basis.

The number of company-owned units used in its operation daily are as follows: Tractors, 343; Trailers, 418; Pickup Trucks and Service Cars, 94; Total 855.

By Mr. Ellis:

Q. Now, I want to interrupt you a minute. Do you mean by that that your company owns and holds title to that number of pieces of equipment, in excess of 800?

A. I do.

Q. And you bought and paid for th m yourself, is that right?

A. Yes sir.

Q. Are they all paid for or substantially paid for?

A. Substantially so.

Q. You have a large investment in equipment, is that right?

A. Yes sir.

Q. Go ahead.

[fol. 1823] A. The annual volume of business at the present time is running at a rate of nine million dollars a year. Employees number one thousand.

It has been traditional with us to maintain an extensive fleet of company-owned equipment, and our experience has demonstrated that it is essential and necessary for the proper conduct of our operations to use, and employ leased equipment on a trip lease basis in order to render adequate service to the shipping public.

All of the loads carried by leased equipment are on written trip leases prepared by the origin station of each trip. We make no oral leases. On each trip, we have the exclusive use of the hired unit. The freight handled by lease equipment is solicited by our company representatives, pick up and delivery arranged for, the same as if it traveled on our own equipment.

Each piece of leased equipment before it enters our service is inspected by a representative of our company, so as to assure us that the same is in such condition as meets the safety requirements of the Commission, and the appropriate state authority in the premises. We require that the driver submit to us a photostatic copy of his physical examination, certified by a physician before he is permitted to operate the leased equipment, and a record thereof is made on the load manifest. We require compliance with all applicable, Federal and State laws by the driver of leased equipment the same as of our fulltime drivers, including [fol. 1824] the requirements as to hours of service.

At the conclusion of our use of trip leased property, we require delivery to us, by the driver of the proper copy of the log sheet concerning the trip involved, which report is filed at our Detroit office. The driver of the leased equipment is given explicit instructions to follow our certificated route, between the points involved for the trip.

The cargo is protected by our cargo insurance policy, and our liability to the general public is covered by our public liability and property damage policy, the same as our own equipment. Since our insurance rates are based upon the experience of our own and leased operated units, we naturally are very meticulous in the proper selection and control of our leased operation.

Our lease is specific as to term, and we know when our responsibility begins and ends. In selecting leased equipment, we secure the best operators available, and our

experience has been that the operators in the main are responsible individuals, anxious to do their job well, and build up a reputation for themselves.

By Mr. Ellis:

Q. This morning witness Girard testified in response to a question by the Examiner, that all of these leased operators—at least if I understood him right—either were broke or were going broke, and that there was a continuous turnover in them, that they got into the business and went out of it, losing their equipment and everything [fol. 1825] else. Now, with that explanation of what he testified to, if I recall correctly because I know you were not here at the time, I now ask you what has been your experience as to whether these lease operators all go broke, and whether they go out of business almost as soon as they get into it, and what, and so forth?

A. Well, our experience is quite to the contrary. We find that in our relationship with leased operators they are very responsible. Many of them have worked for us for years, and have made money in our operation, as evidenced by the fact that they have added to their equipment, and replaced their equipment when it was obsolete, and were able to do so on their earnings.

Q. One other question: Did you cause to be made any investigation by your company employees, managers, and so forth, as to the number of war veterans of World War 2, who are now leasing equipment to your company?

A. Yes.

Q. What was that investigation; what did you find out?

A. Well, out of 150 lease operators, there were 67, or 41 percent who are ex GIs.

Q. In what period of time was that investigation made?

A. This was made just this last month.

Q. In the year 1948?

A. That is right.

Q. Now, go ahead with your prepared statement, please, sir.

[fol. 1826] A. We pick up and deliver only in our authorized territory and do not use the operating rights of any